

**COMMONWEALTH OF VIRGINIA**  
**DEPARTMENT OF INFORMATION TECHNOLOGY**  
**REQUEST FOR PROPOSALS**

**FOR**  
**STATEWIDE TERM CONTRACTS FOR PERSONAL COMPUTERS, NOTEBOOKS**  
**AND SERVERS**

**RFP 2001-03**

**ISSUED**

**November 21, 2000**

## TABLE OF CONTENTS

SECTION	TITLE	PAGE
SECTION 1: PROPOSAL ADMINISTRATION PROCEDURES		
1.1	Purpose	4
1.2	Scope	4
1.3	Issuing Office	5
1.4	Issuing Date	5
1.5	Closing Time and Date	5
1.6	Rules Regarding Late Proposals and Modifications	5
1.7	Registered Vendors	5
1.8	News Releases	5
1.9	Pre-Proposal Conference	6
1.10	Vendor Understanding of Requirements	6
1.11	Procurement Policies and Procedures	6
1.12	Identification of Proposals	6
1.13	Proposal Format	7
1.14	Definition of Mandatory and Desirable Features	8
1.15	Industrial Funding Agreement	8
1.16	Proprietary Information	8
1.17	Cost of Proposals	9
1.18	Contractor Identification	9
1.19	Participation by Small Businesses, Women and Minorities	9
1.20	Contractual Terms and Conditions	10
1.21	Contractual Binding	10
1.22	Rejection of Proposals	10
1.23	ASD Website	10
1.24	Oral Presentation/Demonstration	10
1.25	Evaluation Criteria	11
1.26	Evaluation Process	11
1.27	Review Phase	12
1.28	Contract Negotiations	12
1.29	Length of Contract	12
SECTION 2: GENERAL VENDOR INFORMATION		
2.1	General Corporate Information	13
2.2	Exposure in the Marketplace	14
2.3	Differentiation from other Vendors	14
2.4	Client References	14
2.5	Vendor Commitment Statements of Deliverables	14

### SECTION 3: GENERAL DESCRIPTION OF REQUEST FOR PROPOSAL

3.1	General Information	15
3.2	Pricing	16
3.3	Substitutions	16
3.4	Acceptance	16

### SECTION 4: MANDATORY REQUIREMENTS

4.1	Intention	18
4.2	Product Evaluation Process	18
4.3	System Software	18
4.4	Warranty	18
4.5	Scope of Maintenance During Warranty Period	19
4.6	Bidder References	20
4.7	Delivery	20
4.8	Return of System	20
4.9	Web Site	21

### SECTION 5 DESIRABLE REQUIREMENTS 22

### SECTION 6 PRICE SCHEDULE 23

### SECTION 7 MANDATORY TERMS AND CONDITIONS

APPENDIX A	Mandatory Minimum Requirements of Premium Class Desktops
APPENDIX B	Mandatory Minimum Requirements for Premium Class Workstations
APPENDIX C	Mandatory Minimum Requirements of Premium Class Notebooks
APPENDIX D	Mandatory Minimum Requirements of Premium Class Servers
APPENDIX E	Mandatory Minimum Requirements of Value Class Workstations
APPENDIX F	Mandatory Minimum Requirements of Value Class Notebooks
APPENDIX G	Commonwealth of Virginia Sales Volumes 9/1/1999 – 9/1/2000
APPENDIX H	Instructions for Providing Information Pertaining to Contracts with and Planned Involvement of Small Businesses and Businesses owned by Women and Minorities
APPENDIX I	Sample Forms for Complying with Section 1.19
APPENDIX J	Vendor Client Reference Form
APPENDIX K	Letter of Acceptance

## **SECTION 1:**      PROPOSAL ADMINISTRATION PROCEDURES

### **1.1 Purpose:**

The purpose of this Request for Proposals (RFP) is to solicit proposals from qualified firms in order to establish contracts for State Agencies, Institutions and other Public Bodies to purchase personal computers, workstations, notebooks and servers. It includes associated hardware and operating system software that would allow the operation of the computer as a stand-alone unit, a networked unit in a local area network (LAN), a networked unit in a wide area network (WAN), or any combination of the three. It also includes services to support warranty and post-warranty maintenance. This RFP is for systems, and does not include any provision for individual components, internal or external devices or peripherals to be purchased separately.

The Department of Information Technology intends to establish multiple awards, segregated into two major categories. The first category will be for “Premium” computers, in which the Offeror must be able to meet the requirements of the “Premium” desktop, workstation, server *and* notebook computers, and be able to supply *all four* types. All must be from the same brand. Additionally, the products proposed must be available on any currently available G.S.A. contract, and the Offeror must provide a three year on-site warranty, with a three year exchange warranty for notebooks. There will be up to 5 awards made in this category. Each award will be made for a different brand.

The second category will be for “Value” computers, in which the Offeror must meet only the requirements for “Value” desktops and notebook computers and provide warranty service, which for desktops consist of a one year on-site warranty, with an additional two year parts and labor warranty. The notebook warranty will consist of a one year depot warranty, with options for two additional one year terms. The Vendor may offer upgrades of the desktop parts and labor warranty to on-site, to be exercised at the option of the purchasing agency. The desktops and notebooks proposed must be of the same brand. The brand proposed does not need to be listed on a G.S.A. contract. There will be up to five (5) awards made in this category. Each award will be made for a different brand.

The Offeror may submit proposals in both categories, but they must be for different brands. The Premium category will be awarded first, and a winning brand in that category may not receive an award in the Value category. If not the original equipment manufacturer, the Offeror must supply written confirmation from the manufacturer that said manufacturer will honor an awarded contract should the Offeror be unable to do so. Usage is uncertain. An award does not guarantee purchase by a State Agency.

### **1.2 Scope:**

This document contains the instructions governing the proposal to be submitted, the format in which proposals are to be submitted, and the material to be submitted as part of the proposal. Also included are evaluation criteria and contractual terms and conditions.

### **1.3 Issuing Office**

Commonwealth of Virginia  
Department of Information Technology  
Acquisition Services Division  
110 South Seventh Street – Lobby Floor  
Richmond, Va. 23219  
Attention: Doug Crenshaw  
dcrenshaw@dit.state.va.us

### **1.4 Issuing Date**

This request is being mailed November 21, 2000

### **1.5 Closing Time and Date**

ALL PROPOSALS MUST BE RECEIVED AT THE ISSUING OFFICE NO LATER THAN 4:00 P.M. LOCAL TIME, DECEMBER 12, 2000

### **1.6 Rules Regarding Late Proposals and Modifications**

No proposal or modifications to a proposal will be accepted after the closing date and time. Offerors may use any means of delivery but it is the responsibility of the Offeror to allow adequate time for delivery to the appropriate office. Proposals and modifications received after closing will be returned unopened.

### **1.7 Registered Vendors:**

**PROPOSALS WILL NOT BE CONSIDERED IF THE OFFEROR IS NOT REGISTERED WITH THE DEPARTMENT OF INFORMATION TECHNOLOGY.** A completed registration form must be on file or received by DIT (Acquisition Services Division) not later than the bid due date/time in order for your proposal to be considered. Check the ASD website at <http://asd.state.va.us>, or call (804) 371-5900 to request a registration form.

The Offeror's Federal Identification Number (FIN) should be entered on page 1 of the submitted proposal.

### **1.8 News Releases:**

No public disclosure or news release pertaining to this procurement shall be made without prior written approval of the Issuing Office. FAILURE TO COMPLY WITH THIS PROVISION MAY RESULT IN THE VENDOR BEING DISQUALIFIED.

### **1.9 Pre-proposal Conference:**

An optional pre-proposal conference will be held in the Department of Information Technology 4th floor Auditorium, 110 South 7th Street, Richmond, Virginia at 10:00 A.M. on NOVEMBER 30, 2000. The pre-proposal conference is intended to provide Offerors the opportunity to receive clarification of any requirement of this RFP. No official transcripts of the proceedings will be distributed.

### **1.10 Vendor Understanding of Requirements:**

It is the Offeror's responsibility to inquire about and clarify any requirement of this RFP that is not clearly understood by the Offeror. All verbal questions are discouraged. The Commonwealth will not be bound by verbal responses to questions. All inquiries concerning this RFP should be submitted in writing to:

Mr. Doug Crenshaw  
Department of Information Technology  
Acquisition Services Division  
110 South 7th Street - Lobby Floor  
Richmond, Virginia 2321

All written inquiries must be received by the Issuing Office on or before the close of business December 6, 2000. E-mail is preferred, to the attention of [dcrenshaw@dit.state.va.us](mailto:dcrenshaw@dit.state.va.us). Facsimiles are acceptable at (804) 371-5969. No further written inquiries will be accepted after that date.

### **1.11 Procurement Policies and Procedures:**

Data processing procurement activity conducted by the Commonwealth of Virginia is governed by provisions of the Virginia Public Procurement Act and guided by provisions of the Commonwealth of Virginia Vendor's Manual, December, 1998. The provisions of this RFP are intended to conform to applicable policies and procedures contained in the aforementioned MANUAL. In the event that an Offeror should perceive a provision of this RFP to be at variance with a provision of the MANUAL, OFFERORS ARE DIRECTED TO REGARD THE RFP PROVISION AS PREVAILING.

### **1.12 Identification of Proposals:**

All proposals shall be clearly marked on the outside cover of all envelopes, boxes, or packages:

From:           Name of Offeror  
                  Street or P.O. Box Number  
                  City, State, Zip Code  
                  Due Date: December 12, 2000   Time: NLT 4:00 p.m. (Local time)  
                  RFP Number 2001-03

The proposals must be individually labeled with their contents. Note: The technical and cost proposals must be submitted in separate, sealed packages with the appropriate label, i.e., "Technical Proposal" or "Cost Proposal".

### **1.13 Proposal Format:**

The proposals should be organized in the exact order in which the requirements are presented in the RFP and should be page numbered. The proposal should contain a table of contents which cross references the RFP requirement and the specific page of the response in your proposal. Each paragraph in the proposal should correspond to and reference the paragraph number in the corresponding section of the RFP. The Offeror should repeat the paragraph number, sub-letter, and text of the requirement as it is presented in the RFP. If a response covers more than one page, the Offeror should repeat the paragraph number at the top of the subsequent page. Proposals that are not organized in this manner may be eliminated from consideration for failing to specifically address the technical and contractual requirements.

Offerors are strongly encouraged to adhere to the following general instructions in order to bring clarity and order to the proposal preparation and subsequent evaluation process:

- a. The response should be complete and comprehensive, with a corresponding emphasis on being concise and clear.
- b. All proposed items should be identified as to whether they are in response to mandatory or desirable requirements. Each response to a mandatory item in the proposal must contain, as a minimum, a statement such as "XYZ Fully Complies".
- c. Regardless of whether or not an evaluated feature is being proposed, all evaluated features should be identified as to their availability and associated costs.

The proposal is to be delivered in two parts, each in a separate envelope. The first is the descriptive, or "technical" portion, which addresses the requirements of this solicitation. The second is the cost portion. PLEASE MARK THE COVER OF THE ENVELOPE EITHER "PREMIUM PROPOSAL" OR "VALUE PROPOSAL". The cover sheet of proposal must be signed by the Offeror's contractually binding authority, and must be turned in to the issuing Agency with the proposal. The technical proposal must contain the full name and address of every company bearing an interest in the proposal. There are to be FIVE (5) COPIES of the technical proposal submitted. Only ONE COPY of the cost proposal is required.

Offerors are also requested to provide at least two (2) copies of any additional product descriptions and supportive material in separate binders.

#### **1.14 Definition of “Mandatory” Requirements and “Desirable” Features:**

##### *Mandatory Requirements:*

All mandatory requirements must be met in order for any proposal to be considered. The Offeror must respond to the mandatory section identifying if he or she can fulfill the requirements and how the proposed system will function. Substantiation to responses must be provided. The Commonwealth has established guidelines for offerors governing the interpretation of RFP requirements. The use of “shall” or “must” in this RFP or its official amendments indicates a requirement or condition that is mandatory (mandatory requirement), and shall not be construed in any way as allowing deviation from any requirement. Deviation from mandatory requirements will not be accepted by the Commonwealth. The Commonwealth of Virginia reserves the right to reject any and all proposals and to waive minor informalities.

##### *Desirable Features:*

There are a number of features that are considered desirable. Desirable Features are those which enhance the overall system and performance and are not considered mandatory. Desirable Features are important to the user in selecting a Contractor, but in order to permit Offerors to meet the requirements creatively, they are not specified as strictly mandatory requirements. Offeror responses to desirable services should meet stated goals, objectives, or performance characteristics and identify how the proposed system meets the stated requirement. However, failure of an Offeror to meet desirable requirements is not disqualifying. Proposals that provide more of the desirable features or meet them more effectively than another proposal will be given stronger consideration in vendor selection.

#### **1.15 Industrial Funding Agreement**

All pricing in the Section #6 Price Schedule shall include the I.F.A. Please refer to section 7 for the mandatory requirements of the Industrial Funding Agreement.

#### **1.16 Proprietary Information:**

Trade secrets or proprietary information submitted by a Offeror or Contractor in connection with a procurement transaction shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the Offeror, or Contractor must invoke the protections of Code of Virginia, Section 11 52D, prior to or upon submission of the data or other materials, and must identify the data or other materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information. THE CLASSIFICATION OF AN ENTIRE PROPOSAL DOCUMENT, LINE ITEM PRICES AND/OR PROPOSAL



PRICES AS PROPRIETARY IS NOT ACCEPTABLE AND MAY RESULT IN REJECTION OF THE PROPOSAL.

FAILURE TO MARK THE DATA OR OTHER MATERIALS AS STATED WILL RESULT IN THE DATA OR OTHER MATERIALS BEING RELEASED TO VENDORS OR THE PUBLIC AS PROVIDED IN THE VIRGINIA FREEDOM OF INFORMATION ACT.

**1.17 Cost of Proposals:**

The Offeror is responsible for all costs of proposal preparation. The Commonwealth is not liable for any costs incurred by an Offeror in response to this RFP.

**1.18 Contractor Identification:**

Clearly identify the primary (prime) contractor for this proposal. The full name, address, and telephone number of every company bearing an interest in the proposal must be identified within the proposal. In addition, the primary (prime) Contractor must identify a contact person who will serve as the responsible agent for coordinating the efforts and personnel of the Offeror and all subcontractors involved in the proposal to include, but not be limited to, oral presentations, demonstrations, responses to clarifications, and actual management of the project. Please list this individual's name in the cover letter submitted with the proposal.

**1.19 Participation In State Procurement Transactions by Small Businesses, and Businesses Owned by Women and Minorities.**

It is the policy of the Commonwealth of Virginia to contribute to the establishment, preservation and strengthening of small businesses and businesses owned by women and minorities and to encourage their participation in State procurement activities. The Commonwealth encourages contractors to provide for the participation of small businesses and businesses owned by women and minorities through partnerships, joint ventures, subcontracts, and contractual opportunities. Submission of a report for utilizing the goods and services of such businesses and plans for involvement on this contract is required. By submitting a proposal, Offerors certify that all information provided in response to this RFP is true and accurate.

All information requested by this RFP on the ownership, utilization and planned involvement of small businesses, women-owned businesses and minority-owned businesses must be submitted. If an Offeror fails to submit all information requested, the purchasing agency may require prompt submission of missing information after receipt of Offeror proposals.

Instructions for providing the required information, including definitions, are included as Appendix "H" to this RFP. Forms to assist the Offeror in providing the required

information are also included as Appendix "I". You are not required to use the forms so long as the minimum information required is provided in the prescribed format.

### **1.20 Contractual Terms and Conditions**

Contractual Terms and Conditions are attached to this document. The Commonwealth will not sign or execute any additional contracts, licenses or agreements containing contractual terms and conditions as a result of this procurement. Any document signed by persons other than the Contracts Manager, DIT, shall have no validity and the attached Terms and Conditions shall supersede all such agreements. Offerors should read and understand all of the Terms and Conditions prior to submitting a Proposal.

### **1.21 Contractual Binding:**

Proposed Contract Section 7, entitled "Mandatory Terms and Conditions" lists Terms and Conditions that are considered Mandatory and will be included verbatim in any agreement executed by the Commonwealth of Virginia. FAILURE TO AGREE TO THE MANDATORY TERMS AND CONDITIONS SHALL RESULT IN THE VENDOR'S PROPOSAL BEING EXCLUDED FROM FURTHER CONSIDERATION. THE VENDOR SHOULD INCLUDE IN THE PROPOSAL A STATEMENT CONFIRMING ACCEPTANCE OF THE MANDATORY TERMS AS WRITTEN.

### **1.22 Rejection of Proposals:**

The Commonwealth of Virginia reserves the right to reject any and all proposals received in response to this request.

### **1.23 ASD Website**

The Commonwealth maintains an acquisition website at <http://asd.state.va.us>. Offerors are requested to check this site prior to submitting proposals, in the event the solicitation is amended or extended. ASD has established a web page specifically for this Proposal, and all further information will be posted to that website. Failure to check for amendments does not relieve the Offeror from complying with all terms of any such amendment.

### **1.24 Oral Presentation/Demonstration:**

An oral presentation and or demonstration by the Offeror may be required. If an oral presentation/demonstration is required to clarify or substantiate any area contained in the offeror's response, the Issuing Office will schedule a time and place for the presentation. The response must be complete in all respects, as oral presentations and demonstrations MAY NOT be scheduled. All costs incurred by an Offeror to provide oral presentations/demonstrations are the responsibility of the Offeror. Offerors should be prepared to present oral presentations December 13 – 19, 2000.

### **1.25 Evaluation Criteria:**

Proposals will be evaluated by the Selection Committee using the following criteria, the order of which is not indicative of their weight or importance:

- a. Cost of goods and services being proposed.
- b. Warranty/Maintenance provisions: How the Offeror meets the requirements for Statewide Warranty/Maintenance coverage as stipulated in this RFP.
- c. Financial capabilities of the Offeror.
- d. Volume of Commonwealth of Virginia sales and Virginia Local Government sales from 7/1/99 through 6/30/2000
- e. The Offeror's record of client satisfaction with similar projects as evidenced by Offeror's references, and by publicly available satisfaction surveys, particularly in environments with 300+ p.c.'s.
- f. Participation of Small, Women-Owned and Minority-Owned Businesses.
- g. The Offeror's design for private Commonwealth website or comparable websites developed for other customers. Evaluation will be on clarity of site, ease of user in configuring and ordering systems, and provisions for the acceptance of the Commonwealth's American Express cards.
- h. To the extent the Offeror satisfies the Desirables (Section 5).

### **1.26 Evaluation Process:**

Proposals are evaluated on the basis of the criteria enumerated in the RFP and are scored in accordance with a weighting scheme established and approved prior to the opening of any proposals.

The Commonwealth is not required to furnish a statement of the reasons why a particular proposal was not the most advantageous. Should the Issuing Office determine in writing, and in its sole discretion, that only one Offeror is clearly more highly qualified than others under consideration, a contract may be negotiated and awarded to that Offeror.

The proposal evaluation process involves, first, the review by a Selection Committee of all proposals received in response to the RFP to ensure that each proposal meets the mandatory requirements. The Proposal is to include a written statement confirming acceptance of the Mandatory Terms and Conditions. Proposals which have been determined by the Selection Committee to have not met one or more mandatory

requirements are excluded from any further consideration, subject to approval by the Review Committee.

The second process in the evaluation of proposals involves each Selection Committee member assigning a score to each of the selection criteria based on his/her personal understanding or interpretation of each of the proposed items. It will be decided at the beginning of the process how scores are to be assigned to each of the criteria (such as from zero to ten with five as average). The full Selection Committee will then meet to discuss the scoring. Members may change their scoring, if they desire.

Preliminary scoring may also be changed by committee members after oral presentations or demonstrations. Final scores are then totaled and multiplied by the weights assigned to arrive at a cumulative score and numerical ranking. The Commonwealth will negotiate with selected Offerors deemed to be fully qualified and having the highest evaluation scores. Cost scores, based on the Offerer's response in Section #6 (Price Schedule), are re-computed; scores for the other evaluation criteria MAY NOT BE ALTERED. The lowest price received is the basis for the application of the cost scoring formula.

The cost scoring formula for evaluating proposals is:

$$\frac{\text{Lowest Price Offered}}{\text{Price of Offer being Evaluated}} = \frac{\% \text{ Factor}}{\text{Points}} \times \frac{\text{Max. Available}}{\text{Points}} = \text{Points Assigned}$$

Final cost scores are then added to the scores for the other evaluation criteria, and the vendor having the highest total score is selected for further negotiation.

### **1.27 Review Phase:**

A Review Committee, consisting of Commonwealth employees who do not have a direct interest in the selection, will review the selection process and major decisions such as vendor disqualification, to ensure that the selection was fair and unbiased.

### **1.28 Contract Negotiations:**

After the Selection Committee evaluation, the Commonwealth of Virginia will negotiate further with the selected Offeror(s) to establish a contract containing mutually agreeable terms and conditions. Award of this procurement action is dependent upon the signing of a mutually acceptable contract by both parties. Should the parties fail to agree upon a contract, the Commonwealth, at its sole discretion, will cancel negotiations with the first selected Offeror and proceed with the next acceptable Offeror.

### **1.29 Length of Contract**

The Contract will be for one year with options for three (3) one year renewals.

## **SECTION 2: GENERAL VENDOR INFORMATION**

### **2.1 General Corporate Information**

- a. **OFFEROR'S OPERATING ORGANIZATION:** Provide an overview of the operating structure and geographical locations of the firm at the national, regional, and local levels.
1. **COMPANY CONTACT:** Provide the name, title, street address, city, state, zip code, e-mail address, fax and telephone numbers of the primary contact person.
2. **CORPORATE IDENTITY:**
  - a. Provide the identity of any parent corporation.
  - b. Provide the identity of any subsidiaries if appropriate.
3. **CORPORATE FINANCIAL STATUS:**
  - a. For publicly held companies, Offerors must provide:
    - A copy of their firm's audited financial statements from the past two fiscal years,
    - Their Dun and Bradstreet credit rating number,
    - Their Moody's Investment Service Bond Rating and/or Standard & Poor's Bond Rating if they have publicly held debt.
  - b. For privately held companies, Offerors must provide a copy of audited financial statements for the past two preceding fiscal years or other indicator(s) of financial stability.
  - c. Indicate the percentage of total annual revenue that the proposed product generated for the most recent and two preceding fiscal years.
4. **DESCRIPTION OF STATE PURCHASE HISTORY**

Dollar amount of business done with State of Virginia Localities, Agencies and Educational Institutions over the past twelve months (July 1, 1999 – June 30, 2000).

## **2.2 Exposure in the Marketplace:**

- a. Describe your product's penetration of the p.c. market
- b. Describe your company's experience in the government sector, as well as educational institutions, particularly with installations of 300+ p.c.'s.
- c. Describe your company's support structure, including on-site, on-line and telephone. Describe structure in terms of providing the Statewide service level stipulated in this RFP. Disclose the names of any subcontractors that would be used in providing installation or service. List the certification levels of service personnel, both for the Offeror and for any subcontractors.
- d. If not the original manufacturer of the equipment, provide a letter, signed by the manufacturer, stating that said manufacturer will honor the terms of the Contract should your company be unable to.

## **2.3 Differentiation From Other Vendors:**

Identify features and capabilities that the firm believes differentiate it from its competitors.

## **2.4 Client References**

Supply three references, using the Vendor Client Reference Form supplied in APPENDIX J.

## **2.5 Offeror Commitment Statements of Deliverables**

The Offeror shall provide a letter of transmittal that must accompany both the technical proposal and cost proposals. Include in the letter a statement that identifies all materials and enclosures being forwarded in the proposal. The letter of transmittal must be signed by the person who is authorized to contractually commit the Offeror's organization.

## **SECTION 3: GENERAL DESCRIPTION OF REQUEST FOR PROPOSAL**

### **3.1 General Information**

The Commonwealth is seeking to establish multiple contracts in two categories. The “PREMIUM” category will consist of high-end desktops, workstations, servers and notebook computers. The “VALUE” classification will consist of desktop and notebook computers, but not workstations or servers. Offerors may bid in both categories, but each proposal must be for a different brand. Awards will first be made in the “PREMIUM” category. A brand winning an award in that category will not be evaluated in the “VALUE” category.

To bid in the “PREMIUM” category, the vendor must be able to supply desktops, workstations, servers AND notebooks. Additionally, the vendor must be able to meet all of the mandatory requirements for the systems in that classification (Appendices A, B, C and D), and provide 3 year On-site service. Also, the products proposed must be available on a current G.S.A. contract. There will be up to five (5) awards made in this category

To bid in the “VALUE” category, the vendor must be able to meet all of the mandatory requirements for Value desktops (Appendix E) and the requirements for Value notebooks (Appendix F), including associated warranties. There are no workstations or servers in this category, and the brand proposed does not need to be listed on a G.S.A. contract. There will be up to five (5) awards in this category

Upon award, the winning Contractor(s) shall establish unique web pages for the exclusive use of the Commonwealth. On these web pages Contractors shall list configuration options for the same product line as submitted in the proposal. The Commonwealth customer will then be able to order his or her preferred configuration from that line. While the Contractor’s proposed product line must contain a configuration that meets the minimum specifications for that system category, the Commonwealth customer may elect to select a configuration that is either more or less powerful, provided it is in the same product line. The customer may select not to purchase certain components, with monitors as one example. Additionally, the web site should include relevant documentation that can be downloaded by the customer. Drivers and patches, or service packs could also be made available for download.

Note: This is not a “parts” contract. Upgrades, additional add-ons, etc. may only be purchased through the original equipment order.

### **3.2 Pricing**

Refers to the formula by which Commonwealth (COV) pricing is determined. The COV price will be calculated by applying a discount percentage to prices listed on the vendor's website, the manufacturer's suggested retail price, or a referenced, publicly available price list. An example of this is: the price list = \$1,000.00, The COV discount percentage is 20%, with the resulting Commonwealth price being \$800.00. The Commonwealth must receive a discount. "Zero" discount proposals will not be considered for award. Pricing will contain the I.F.A. adjustment (see section 1.15). The referenced price lists are to be submitted with the proposal, or, if the price list is posted on a website, the Offeror must furnish the URL of that website.

Price adjustments will be allowed to be upward or downward. Price adjustments may occur only when the above referenced price list changes on the selected item. Prior to the implementation of price changes, the Contractor must submit an entirely new price list to the COV Contract Officer for approval. Discount rates shall not change.

By submitting a response to this Request For Proposals, the Offeror agrees that the invoice price to the Commonwealth for any contract item shall be the best price available to any governmental entity located in the Commonwealth of Virginia for the duration of the contract. In the event that, during the term of the contract the Contractor has delivered the products or services proposed herein at a lower cost, the Commonwealth shall be entitled to the lump sum difference in pricing for all products or services purchased from the date of the infraction.

### **3.3 Substitutions**

The Contractor may substitute or replace products that are of equal or greater value than the products ordered, only if the product line submitted in the response has been discontinued, and only upon the written authorization of the Contract Manager. Any request for substitution or replacement must be submitted in writing by the Contractor to the Contract Manager. The cost shall not exceed the price being paid for the item being substituted or replaced.

### **3.4 Acceptance**

- Hardware and software acceptance is dependent on a 48 consecutive business hour successful standard of performance as defined herein.
- The Performance Period will begin within 10 days of receipt and will end when the hardware and software has met the standard of performance for a period of 48 consecutive business hours by operating in conformance with the Contractor's specifications (as set forth in the Contractor's manual, manufacturer's manual, or as quoted in the Offeror's response to the Request for Proposal).



- If the hardware or software does not meet the standard of performance during the initial 48 consecutive business hours, the standard of performance test shall continue on a day-to-day basis until the standard of performance is met for a total of 48 consecutive business hours.
- If the hardware or software fails to meet the standard of performance after thirty (30) calendar days of the start of the Performance Period, the Contractor shall be required to replace the defective unit. The Contractor will have ten (10) working days to make such replacement. Upon replacement, the Performance Period shall start again. Should the replacement product fail to meet the standard of performance during the restarted Performance Period, the Commonwealth may request replacement hardware or software or terminate the order.
- Hardware or software will not be accepted nor charges paid until the Performance Period is complete.

## **SECTION 4 MANDATORY REQUIREMENTS**

### **4.1 Intention**

It is the intent of the Commonwealth to describe a complete working configuration. Any incidental terms omitted from these specifications but needed to make a complete working configuration shall be provided by the Contractor and shall be included in the Proposal price.

### **4.2 Equipment Evaluation Period**

The Commonwealth may elect to conduct testing before the award of the Contract. All Offerors should be prepared to provide hardware and system software for such testing prior to award. Should the COV elect to test an Offeror's hardware and system software, the Offeror must provide one (1) evaluation system for each configuration bid. If the COV determines that the Offeror's hardware and/or system software do not meet the specifications as stated in the RFP, the bid will be rejected, and the equipment may be reclaimed by the Offeror. The Offeror shall be liable for all costs associated with the hardware and system software submitted for evaluation.

### **4.3 System Software**

Each delivered system shall have installed the most current operating system release, unless otherwise specified by the COV customer. The Contractor shall provide each system with a perpetual, non-transferable and non-exclusive system software license and manuals, and shall, if requested, deliver all original software media with the system. If the media is not requested, the Contractor shall provide evidence of license. The Agency will have the right to make, for internal use, as many additional copies of user manuals as it deems necessary. The Agency may make one backup or archive copy of the system software.

### **4.4 Warranty**

The following are minimum requirements. The Offeror may propose more.

- The Offeror warrants that all hardware furnished hereunder shall be new and not used or refurbished, and must have been manufactured during the preceding three months. In no event may any hardware, operating system software or drivers be a "test" or "release candidate" product.
- The Offeror warrants that all "Premium" hardware shall be free from defects in material and workmanship for a period of three (3) years after the date of its acceptance (the "Warranty Period"), and shall have a three (3) year on-site warranty. Premium notebooks shall have a 3 year exchange warranty. Exchange

is defined as replacement of the shell, display, hard disk or other detachable item that may fail. Servers shall have a 4 hour, 24 X 7 X 365 on-site response warranty.

- “Value” desktops shall be free from defects in material and workmanship for a period of one year, with a one (1) year on-site warranty, and an additional two year parts and labor warranty. Additionally, the Offeror may propose an option to upgrade the “parts and labor” warranty to “on-site”. Value notebooks will have a one year “depot” warranty, with options for two additional one year terms. The Offeror may propose an option to upgrade the notebook warranty to an exchange warranty.
- At the option of the Commonwealth, the Offeror shall either repair, replace or exchange any defective piece of hardware that the Offeror or the COV determines to be defective. The Offeror must bear all costs and risks regarding the return of any defective piece of hardware.
- The Offeror warrants to the Commonwealth good and clear title to the hardware, free of any liens, encumbrances or security interests.
- The Offeror warrants that it will provide on-site remedial maintenance at no additional cost during the Warranty Period. All parts, labor and travel costs shall be provided at no cost to the Commonwealth. All parts must be certified as new.
- The Offeror must provide a single toll-free phone number to call for warranty service. All service calls must be traceable by a unique log number.
- The Offeror warrants that it will contact the Agency within two (2) working hours after notification of a problem. Remedial maintenance shall be completed by the end of the next working day of notification by the using Agency. In the case of servers, service personnel must be on-site within four hours. The Principal Period of Maintenance (PPM) for desktops, workstations and notebooks is 8–5, Monday through Friday, with the exception of State holidays. The PPM for servers is 24 X 7 X 365 days a year.
- If it is necessary to remove any equipment from a Commonwealth location where on-site warranty is specified, the Contractor shall provide substitute equipment at the time of removal. Substitute equipment must be comparable to the equipment removed. There shall be no charge to the Commonwealth for the substitute equipment.

#### **4.5 Scope of Maintenance During Warranty**

##### Hardware:

During the Warranty Period, the Contractor must render maintenance to keep hardware in, or restore hardware to, good working order. This maintenance must include any repair, replacement or exchange deemed necessary. Maintenance parts may or may not be manufactured by the original hardware manufacturer, may be altered by the Contractor to enhance maintainability, but must be acceptable to the original hardware manufacturer. All maintenance parts must be furnished and replaced on an exchange basis, and the exchanged parts must become the property of the Contractor. All maintenance parts must be new or certified as new.

#### System Software:

The Contractor warrants that all hardware proposed will run the latest versions of the Microsoft Operating Systems, as referenced in appendices A - F

#### **4.6 Offeror's References**

Offeror must provide at least three (3) references of sizable entities (300 + units) for hardware provided during the past three years in order to demonstrate the Offeror's ability to provide products and the Warranty/Maintenance. Offeror must provide contact names, telephone numbers and a description qualifying the reference for each reference given. References provided by the Offeror must agree to be interviewed by the Commonwealth. See Appendix J for a sample reference form. The Offeror should also cite publicly available satisfaction survey results.

Should the Offeror elect to utilize a subcontractor for Warranty/Maintenance, references must be provided for the subcontractor. Offeror shall supply credentials and certifications such as, but not limited to, A+, M.C.S.E, etc., for the Offeror's or subcontractor's service personnel. The Offeror retains sole responsibility for the successful completion of warranty service.

#### **4.7 Delivery**

Shipment by the Contractor shall be FOB destination. Shipping charges shall be included in the cost of the units. No additional charges will be allowed. Units shall be pre-assembled, with the exception of attaching peripheral devices. All internal cards, modems, etc. shall be installed, along with appropriate drivers. Delivery shall not exceed 15 days ARO. Contractor shall notify the ordering Agency within 5 days if all or part of the order will not meet the delivery requirement. The ordering agency, at its option, may elect to establish a new delivery date, or amend or cancel the order.

#### **4.8 Return of System**

If a system is returned to a Contractor for failure of performance, the Contractor must, at the Commonwealth's discretion, refund all amounts paid to the Contractor for such system or replace the system, and the following shall apply:

- Within twenty (20) days of written notification by the using Agency, the Contractor must make arrangements for the return of the system.
- All shipping and insurance costs shall be borne by the Contractor.
- Contractor shall be liable for damages to the system, unless caused by fault or negligence of the Agency that occur during the return process.

- If the system is returned to the Contractor for any other reason, then the Agency will be responsible for all costs associated with the preparation of the system for shipping, and for shipping costs to the Contractor's nearest service location.

#### **4.9 Web Site**

All Contractor shall be required and will make available descriptions of all goods, services and prices for contracted items on a unique web page set up exclusively for the use of the Commonwealth. All necessary contract information including configurations, prices and discounts will be available through this web site so as to facilitate purchases by the Commonwealth. The Contractor shall list, side-by-side, the discounted prices for the Commonwealth, as well as the prices from the price list being referenced to calculate the discount. Documentation, manuals, service packs and patches should be made available for download on this site. If the website allows provisions for on-line ordering, it must be a secure site, and the Contractor shall be required to utilize the Commonwealth's electronic commerce services, including corporate credit card transactions. In the Proposal, the Offeror must either provide a design for the proposed Commonwealth website, or provide URL's to comparable sites designed for other customers.

The website created by the Contractor shall list ONLY items covered by the contract (approved by DIT in advance). The Contractor shall not reference non-contract items, add-ons or features on this website.

## **SECTION 5: DESIRABLES**

1. The Offeror may propose an optional 24 X 7, 4-hour response coverage for desktops, workstations and notebooks.
2. The Offeror may propose an option for Unix or the Linux Operating System for desktops, workstations, notebooks and/or servers.
3. The Offeror may propose servers to be pre-loaded with the Novell operating system.
4. The Offeror may propose an option for training to Commonwealth employees of diagnostic tools and troubleshooting tips for the systems purchased.
5. The "Premium" Offering may include external storage products for servers. Offered external storage devices shall be a normal part of the Offeror's product line in order to be part of the contract. These items must be ordered at the time of the order of the system.
6. The Offeror may propose "imaging" services for the new p.c.'s (prior to delivery), whereby an Agency's software setup can be replicated from p.c. to p.c.. Should a COV entity request imaging services, that entity will provide a copy of the desired image to the Contractor, or will request the Contractor's assistance in creating the image.

## **SECTION 6: PRICE SCHEDULE**

***All pricing in the Section #6 Price Schedule shall include the I.F.A. Please refer to section 7 for the mandatory requirements of the Industrial Funding Agreement.***

Offerors must submit their pricing proposal on this form. This form is for comparative pricing evaluation only, and does not indicate a mandatory ordering profile. Discounts are mandatory. Do not price hardware items listed as "optional".

### **Premium Class Desktop**

(As listed in Appendix "A", assume desktop with 1 processor and a 17" monitor, with Windows 2000 installed). Includes 3 year on-site warranty.

Referenced Price:\$ \_\_\_\_\_ C.O.V Discount: \_\_\_\_\_%

Total: (A) \$ \_\_\_\_\_

### **Premium Class Workstation**

(As listed in Appendix "B", assume 1 processor, SCSI hard drive and a 17" monitor, with Windows 2000 installed). Includes 3 year on-site warranty.

Referenced Price:\$ \_\_\_\_\_ C.O.V Discount: \_\_\_\_\_%

Total: (B) \$ \_\_\_\_\_

### **Premium Class Notebook**

(As listed in Appendix "C", with Windows 2000 installed). Includes 3 year on-site warranty. Do not price docking station or port replicator.

Referenced Price:\$ \_\_\_\_\_ C.O.V Discount: \_\_\_\_\_%

Total: (C) \$ \_\_\_\_\_

### **Premium Class Server**

(As listed in Appendix "D". Assume tower with 1 processor installed, but support for 4 processors, 1 gig. of memory, RAID 5, 3 hard drives, plus one hot spare, Windows 2000 Server), 17" monitor. Includes 3 year 24 X 7 on-site warranty. Do not price external storage.

Referenced Price:\$ \_\_\_\_\_

C.O.V Discount: \_\_\_\_\_ %

Total: (D) \$ \_\_\_\_\_

Value Class Desktop:

(As listed in Appendix E. Assume desktop with 1 processor, 17" monitor, Windows 2000). Includes 1 year on-site and 2 year parts and labor warranty.

Referenced Price:\$ \_\_\_\_\_

C.O.V Discount: \_\_\_\_\_ %

(E) \$ \_\_\_\_\_

Value Class Notebook:

(As listed in Appendix F. Windows 2000). Includes 1 year depot warranty. Do not price docking station or port replicator.

Referenced Price:\$ \_\_\_\_\_

C.O.V Discount: \_\_\_\_\_ %

Total: (F) \$ \_\_\_\_\_

Value Desktop Warranty Upgrade:

(Upgrade of Value 1 year on-site, 2 year parts and labor to 3 year on-site.)

(G) \$ \_\_\_\_\_

Value Notebook Warranty Upgrade:

(Upgrade of Value notebook 1 year "depot" warranty to 3 year depot.)

(H) \$ \_\_\_\_\_

**Grand Total:** \$ \_\_\_\_\_

The Grand Total for "Premium" class machines is the sum of A,B,C and D

The Grand Total for "Value class machines is the sum of E and F

**Authorized Signature** \_\_\_\_\_



**Printed Name and Title** \_\_\_\_\_

**Company Name** \_\_\_\_\_

**Company Address** \_\_\_\_\_

**Telephone** \_\_\_\_\_

**E-Mail** \_\_\_\_\_

*Note: The mandatory minimum requirements in Appendices A –F must be available for the models offered. They do not indicate mandatory ordering profiles for the COV. Please refer to Section 3.1.*

## **APPENDIX A**

### **MANDATORY MINIMUM REQUIREMENTS FOR PREMIUM CLASS DESKTOPS**

Case	Desktop and tower available
Processor	Intel P III 800+ mhz
Memory	128 meg.
Disk Size	9 gig. 5400 rpm minimum
Cache	256k Level 2
Bus Speed	133 mhz
Video	8 meg. video memory
Connections	2 each PS-2 style (mouse, keyboard) 1 serial (9 pin), 1 parallel, 1 USB
Keyboard	US 101 enhanced
Modem	Internal 56K v. 90 fax/modem, rj-11 jack
Network Card	10/100 Ethernet, rj-45 jack
Floppy	3 ½"
CD-ROM	48X
CD-RW	4X, <i>available as option</i>
Audio:	Stereo in, out, microphone in
Expansion bays	Min. 2 available
Expansion slots:	Min. 3 pci available
Monitor	17", 19", 21" available 75 mhz refresh, .28 dot pitch
Sound Card	16 bit
O/S	Choice of Windows 2000, Windows 98
Warranty	Three (3) year on-site
Regulatory	FCC Class B

## APPENDIX B

### MANDATORY MINIMUM REQUIREMENTS FOR PREMIUM CLASS WORKSTATIONS

Processor	Intel P III 800+ mhz, support for two processors
Memory	256 meg. Expandable to 1 G.
Disk Size	9 gig. 5400 rpm minimum, SCSI available
Cache	256k Level 2
Bus Speed	133 mhz
Video	8 meg. video memory
Connections	2 each PS-2 style (mouse, keyboard) 1 serial (9 pin), 1 parallel, 1 USB, 1 High Density SCSI
Keyboard	US 101 enhanced
Modem	Internal 56K v. 90 fax/modem, rj-11 jack
Network Card	10/100 Ethernet, rj-45 jack
Floppy	3 ½"
CD-ROM	48X
CD-RW	4X, <i>available as an option</i>
Audio:	Stereo in, out, microphone in
Expansion bays	Min. 2 available
Expansion slots:	Min. 3 pci available
Monitor	17", 19", 21" available 75 mhz refresh, .28 dot pitch
Sound Card	16 bit
O/S	Choice of Windows 2000, Windows 98
Warranty	Three (3) year on-site
Regulatory	FCC Class B

## APPENDIX C

### MANDATORY MINIMUM PREMIUM REQUIREMENTS FOR PREMIUM CLASS NOTEBOOKS

Processor	Intel P III 650 mhz.
Power Saving	Intel "Speed Step" to 500 mhz
Cache	256K Level 2
Memory	128 meg ECC
Disk Size	6 gig.
Bus Speed	133 mhz
Video	4 meg. memory 14.1" Active Matrix 1024 X 768
Connections	1 serial (9 pin), 1 parallel, USB, docking station port for compatible docking station by same manufacturer, infrared compatible with IrDA 1.1 (fast) and 1.0 (slow)
Keyboard	US 85 key
Pointing Device	Touch pad or pointing stick
PCMCIA	Accept Type III and Type II
Modem	Internal 56K v. 90 fax/modem
Network Card	Internal 10/100 Ethernet or PCMCIA 10/100 Ethernet
Floppy	3 ½"
CD-ROM	24X
Audio	Stereo in, out, microphone in
O/S	Windows 2000, Windows 98
Support for:	Same manufacturer docking station and/or port replicator
Sound	16 bit
Accessories	Travel bag, mouse
Warranty	Three (3) year exchange
Regulatory	FCC Class B

## APPENDIX D

### MANDATORY MINIMUM REQUIREMENTS FOR PREMIUM CLASS SERVERS

Case	Tower or rack-mountable
Processors	Support for a minimum of four Intel P III 550
Cache	512 K Level 2
Bus	100 mhz minimum
Memory	4 gig. ECC
Controllers	Support for SCSI and RAID Support second controller
Disks	Minimum of four hot-swappable 9 gig. minimum (all must match for RAID 5)
Backplane	Requires RAID card
Network	Two Ethernet network cards with rj-45 jacks Primary: 100+ with load balancing and fault tolerance Second: 10/100
Floppy	3 ½"
CD-ROM	32X Internal
Modem	56K v.90 with rj-11 jack
Tape Backup	DLT (20g – 40 g.)
Tape Backup Software	
External Storage Availability	
Connections	<i>Optional</i> 2 serial (9 pin), 1 parallel, USB 2 each PS-2 type (mouse, keyboard)
Keyboard	US 101 Enhanced
Video	4meg. memory
Monitor	15", 17" 75 mhz refresh, .28 dot pitch
Power	Hot-plugable, redundant power supplies
Cooling	Hot-swappable, redundant fans
Expansion Slots	Hot-swappable PCI (5 – 12)
Expansion Bays	Min. 2 available
Compatibility	Windows 2000 HCL
O/S	Windows 2000 Server, Windows 2000 Advanced Server
Warranty	Three (3) year on-site 4 hour response 24 X 7
Regulatory	FCC Class B

## APPENDIX E

### MANDATORY MINIMUM REQUIREMENTS FOR VALUE CLASS DESKTOPS

Case	Desktop and tower available
Processor	Intel P III 800+ mhz
Memory	128 meg. ECC
Disk Size	9 gig. 5400 rpm minimum
Cache	128
Bus Speed	133 mhz
Video	8 meg. video memory
Connections	2 each PS-2 style (mouse, keyboard) 1 serial (9 pin), 1 parallel, 1 USB
Keyboard	US 101 enhanced
Modem	Internal 56K v. 90 fax/modem, rj-11 jack
Network Card	10/100 Ethernet, rj-45 jack
Floppy	3 ½"
CD-ROM	48X
CD-RW	<i>Available as an option</i>
Expansion bays	Min. 2 available
Expansion slots:	Min. 3 pci available
Monitor	17", 19", 21" available 75 mhz refresh, .28 dot pitch
Sound Card	16 bit
O/S	Choice of Windows 2000, Windows 98
Warranty	One (1) year on-site, options for two additional 1 year parts & labor contracts
Regulatory	FCC Class B

## APPENDIX F

### MANADATORY MINIMUM REQUIREMENTS FOR VALUE CLASS NOTEBOOKS

Processor	Intel P III 500 mhz.
Cache	128k
Memory	64 meg ECC
Disk Size	6 gig.
Bus Speed	133 mhz
Video	4 meg. memory 14.1" Active Matrix 1024 X 768
Connections	1 serial (9 pin), 1 parallel, USB, docking station port for compatible docking station by same manufacturer, infrared compatible with IrDA 1.1 (fast) and 1.0 (slow)
Keyboard	US 85 key
Pointing Device	Touch pad or pointing stick
PCMCIA	Accept Type III and Type II
Modem	Internal 56K v. 90 fax/modem
Network Card	Internal 10/100 Ethernet or PCMCIA 10/100 Ethernet
Floppy	3 ½"
CD-ROM	24X
O/S	Windows 2000, Windows 98
Support for:	Same manufacturer docking station, and/or port replicator
Sound	16 bit
Accessories	Travel bag, mouse
Warranty	One year depot <i>with two additional one year options</i>
Regulatory	FCC Class B

## **APPENDIX G**

### **COMMONWEALTH OF VIRGINIA SALES VOLUMES 6/30/99 – 7/1/2000**

List C.O.V. sales for the period from 6/30/1999 – 7/1/2000 for:

Desktops \$ \_\_\_\_\_

Workstations \$ \_\_\_\_\_

Notebooks \$ \_\_\_\_\_

Servers \$ \_\_\_\_\_

List C.O.V. Localities sales for the period from 6/30/1999 – 7/1/2000 for:

Desktops \$ \_\_\_\_\_

Workstations \$ \_\_\_\_\_

Notebooks \$ \_\_\_\_\_

Servers \$ \_\_\_\_\_



## APPENDIX H

### INSTRUCTIONS FOR PROVIDING INFORMATION PERTAINING TO CONTRACTS WITH AND PLANNED INVOLVEMENT OF SMALL BUSINESSES AND BUSINESSES OWNED BY WOMEN AND MINORITIES

**The offeror must submit the following three sets of data for small business, women-owned business and minority-owned business:**

(1) Ownership; (2) utilization of small, women-owned, and minority-owned businesses for the most recent 12 months; and (3) planned involvement of small businesses, women-owned businesses and minority-owned businesses on the instant procurement.

1. Participation by Small Business:

a. Offeror certifies that it ( ) is, ( ) is not, a small business concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is contracting and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the United States Small Business Administration.

b. List small business with which the offeror has contracted or done business and dollar amounts spent with each of these businesses in the most recent 12-month period for which data are available. Offerors are encouraged to provide additional information and expand upon the following format:

PERIOD:

From \_\_\_\_\_ To: \_\_\_\_\_

FIRM NAME

% TOTAL  
EXPENDITURES

ADDRESS &  
PHONE NO.

CONTACT  
PERSON

TYPE GOODS/  
SERVICES

\$ FOR  
GOODS/ SERVICES

- c. Describe offeror's plans to involve small businesses in the performance of this contract either as part of a joint venture, as a partnership, as subcontractors or as suppliers. Offerors are encouraged to provide additional information and expand upon the following format:

FIRM NAME ADDRESS & PHONE NO.	CONTACT PERSON	TYPE GOODS/ SERVICES	DOLLARS	% OF TOTAL CONTRACT
-------------------------------------	-------------------	-------------------------	---------	------------------------

2. Participation by Businesses Owned by Women:

- a. Offeror certifies that it ( ) is, ( ) is not, a women's business enterprise or women-owned business. For the purpose of this procurement, a women-owned business is a concern that is at least 51 percent owned by a woman or women who also control and operate it. In this context, "control" means exercising that power to make policy decisions, and "operate" means being actively involved in the day-to-day management.
- b. List businesses owned by women with which the offeror has contracted or done business and dollar amounts spent with each of these businesses in the most recent 12-month period for which data are available. Offerors are encouraged to provide additional information and expand upon the following format:

PERIOD: From \_\_\_\_\_ To: \_\_\_\_\_

FIRM NAME, ADDRESS & PHONE NO.	CONTACT PERSON	TYPE GOOD/ SERVICES	DOLLARS	% OF TOTAL CONTRACT
--------------------------------------	-------------------	------------------------	---------	------------------------

- c. Describe offeror's plans to involve businesses owned by women in the performance of this contract either as part of a joint venture, as a partnership, as subcontractors or as suppliers. Offerors are encouraged to provide additional information and expand upon the following format:

FIRM NAME, ADDRESS/ PHONE NO.	CONTRACT PERSON	TYPE GOODS/ SERVICES	TOTAL % OF DOLLARS
-------------------------------------	--------------------	-------------------------	-----------------------

3. Participation of Businesses Owned by Minorities:

- a. Offeror certifies that it ( ) is, ( ) is not, a minority business enterprise of minority-owned business. For the purpose of this procurement, a minority-owned business is a concern that is at least 51% owned and controlled by one or more socially and economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to Blacks, Hispanic Americans, Asian Americans, American Indians, Eskimos, and Aleuts.
- b. List businesses owned by minorities with which the offeror has contracted or done business and dollar amounts spent with each of these businesses in the most recent 12-month period for which data are available. Offerors are encouraged to provide additional information and expand upon the following format:

PERIOD:  
From \_\_\_\_\_ To: \_\_\_\_\_

<u>FIRM NAME, ADDRESS / PHONE NO.</u>	<u>CONTACT PERSON</u>	<u>TYPE GOODS/ SERVICES</u>	<u>% TOTAL EXPENDITURES FOR GOODS &amp; SERVICES</u>
---	---------------------------	---------------------------------	--

- c. Describe offeror's plans to involve minority businesses in the performance of this contract either as part of a joint venture, as a partnership, as subcontractors or as suppliers. Offerors are encouraged to provide additional information and expand upon the following format:

<u>FIRM NAME, ADDRESS &amp; PHONE NO.</u>	<u>CONTRACT PERSON</u>	<u>TYPE GOODS/ SERVICES</u>	<u>% OF COTRACT</u>
---	----------------------------	---------------------------------	-------------------------

### **Definitions for Goods and Nonprofessional Services**

- **Period** is the 12-month period from 7/1/99 through 6/30/00, for which the information provided in this list is applicable and valid.
- **Firm Name, Address and Phone Number** is the name, address and business or minority-owned business with which the specified period or plans to involve on this contract, as applicable.
- **Contact Person** is the name of the individual in the specified small business, women-owned business or minority-owned business who would have knowledge of the specified contracting and would be able to validate the information provided in this list.
- **Type Goods or Services** is the specific goods or services the offeror has contracted for from the specified small, women-owned or minority-owned business over the specified period of time or plans to use in the performance of this contractor, as applicable. The offeror will asterisk (\*) those goods and services that are in the offeror's primary business or industry.
- **Dollar Amount** is the total dollar amount (in thousands of dollars) the offeror has contracted for or has done business with the listed firm during the specified period or plans to use on this contract, as applicable.
- **% Total Company Expenditures for Goods and Services** is calculated by dividing the dollar amount of business conducted or contracted for with the indicated firm over the specified period by the total expenditure of the offeror over the specified period for goods and services.
- **% of Total Contract** is calculated by dividing the estimated dollars planned for the indicated firm on this contract by the total offeror estimated price of this contract.

For the purposes of this RFP only, in the item "% of Total Contract" on the "Planned Involvement" forms, the total estimated price of this contract will be the offeror's prices for all stated **mandatory services with specified volumes during a three-year period**. The cost of such services **without** specified volumes and the cost of **optional** services will not be included.

**APPENDIX I**

DEPARTMENT OF INFORMATION TECHNOLOGY

ACQUISITION SERVICES DIVISION

SAMPLE FORMS FOR PROVIDING INFORMATION PERTAINING TO  
CONTRACTS WITH AND PLANNED INVOLVEMENT OF SMALL BUSINESSES  
AND BUSINESSES OWNED BY WOMEN AND MINORITIES

**CONTRACTS WITH SMALL BUSINESSES**

PERIOD: From \_\_\_\_\_

To \_\_\_\_\_

% Total Co.  
Expenditures:

Firm Name, Address  
& Phone Number

Contact  
Person

Amount  
Goods &  
Services

Type  
Goods  
& Services

***OFFEROR CERTIFIES THAT IT ( ) IS, ( ) IS NOT A SMALL BUSINESS  
CONCERN***

OFFEROR: \_\_\_\_\_

RFP # \_\_\_\_\_

**PLANNED INVOLVEMENT OF SMALL BUSINESSES IN PERFORMANCE OF  
THIS CONTRACT**

Firm Name,  
Address  
& Phone Number

Contact  
Person

Amount for  
Goods  
& Services

Type  
Goods  
& Ser.

***OFFEROR CERTIFIES THAT IT ( ) IS, ( ) IS NOT A SMALL BUSINESS CONCERN***

OFFEROR: \_\_\_\_\_

RFP # \_\_\_\_\_

**CONTRACTS WITH WOMEN'S BUSINESSES ENTERPRISES / WOMEN-  
OWNED BUSINESSES**

PERIOD:

From \_\_\_\_\_ To \_\_\_\_\_

% Total Co.  
Expenditures

Firm Name,  
Address  
& Phone #

Contact  
Person

Amount for  
Goods &  
Services

Type  
Goods  
& Ser.

***OFFEROR CERTIFIES THAT IT ( ) IS, ( ) IS NOT A WOMEN'S OWNED  
BUSINESS***

OFFEROR: \_\_\_\_\_

RFP # \_\_\_\_\_



**PLANNED INVOLVEMENT OF WOMEN-OWNED BUSINESSES IN  
PERFORMANCE OF THIS CONTRACT**

Firm Name,  
Address  
& Phone #

Contact  
Person

Amount for  
Goods &  
Services

Type  
Goods  
& Ser.

***OFFEROR CERTIFIES THAT IT ( ) IS, ( ) IS NOT A WOMEN'S BUSINESS  
CONCERN***

OFFEROR: \_\_\_\_\_

RFP # \_\_\_\_\_

**CONTRACTS WITH BUSINESSES OWNED BY MINORITIES**

PERIOD:

From \_\_\_\_\_ To \_\_\_\_\_

% Total Co.  
Expenditures

Firm Name, Address & Phone #	Contact <u>Person</u>	Amount for Goods & <u>Services</u>	Type Goods & <u>Ser.</u>
------------------------------------	--------------------------	--	--------------------------------

***OFFEROR CERTIFIES THAT IT ( ) IS, ( ) IS NOT A MINORITY  
BUSINESS:***

OFFEROR: \_\_\_\_\_

RFP# \_\_\_\_\_

**PLANNED INVOLVEMENT OF MINORITY-OWNED BUSINESSES IN  
PERFORMANCE OF THIS CONTRACT**

Firm Name,  
Address  
& Phone #

Contact  
Person

Amount for  
Goods &  
Services

Type  
Goods  
& Ser.

***OFFEROR CERTIFIES THAT IT ( ) IS, ( ) IS NOT A MINORITY-  
OWNED BUSINESS***

OFFEROR: \_\_\_\_\_

RFP#: \_\_\_\_\_

**APPENDIX J**

**REQUEST FOR PROPOSAL 2001-03**

**COMMONWEALTH OF VIRGINIA  
DEPARTMENT OF INFORMATION TECHNOLOGY**

**VENDOR CLIENT REFERENCE FORM**

**Vendor**

**Name:** \_\_\_\_\_

**CLIENT**

**Name of Firm:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Telephone Number of Contact:** \_\_\_\_\_

## **APPENDIX K**

### **LETTER OF ACCEPTANCE**

This is a letter of acceptance. It should be reproduced on the participating Agency, Institution or Locality's letterhead. The warranty period will begin with the date of signature.

Date:

**\*\*Agency, etc. Contact\*\***  
Commonwealth of Virginia  
**\*\*Agency, etc.\*\***  
**\*\*Department\*\***

Dear **\*\* contact \*\***

This letter precedes invoicing for the Contract cost for the Department of \*\*\*.  
This equipment was ordered from the State P.C. Contract # \_\_\_\_\_ and purchase order # \_\_\_\_\_. We attest to the fact that this equipment has been successfully installed and tested. We hereby agree to accept this equipment.

Sincerely,

Agency, etc. Representative

## **Section 7: MANDATORY CONTRACTUAL TERMS AND CONDITIONS**

The following terms and conditions are **MANDATORY** and shall be included verbatim in any contract awarded.

### **1. SCOPE OF AGREEMENT**

The following paragraphs contain the Contractual terms and conditions by which state agencies, institutions of higher education, localities or political subdivisions as defined in the Code of Virginia, local school divisions or other public bodies of the Commonwealth ("Authorized Users") will acquire high-end ("Premium") desktops, workstations, servers, and laptop computers ("Equipment") as defined in Appendices A, B, C, and D herein and other ("Value") desktop and notebook computers ("Equipment") as defined in Appendices E and F herein and support services ("Services") pursuant to the Commonwealth's Request For Proposal #2001-003, dated \_\_\_\_\_ (the "RFP") and the Contractor's proposal, dated \_\_\_\_\_, 2000 in response thereto.

### **2. TAXES - FEDERAL, STATE AND LOCAL**

The Commonwealth is exempt from Federal excise tax and from all State and local taxes. The Contractor shall not include such taxes in any invoices under this Agreement. Upon request, the Commonwealth shall furnish the Contractor with tax exemption certificates.

### **3. NON-APPROPRIATION**

All orders for Equipment and Services and all payment obligations under this Agreement are subject to appropriated funds being available for expenditure for that purpose. The Commonwealth shall promptly notify the Contractor of any action denying such funding. In such event, any outstanding order shall be canceled without further obligation to the extent the affected Equipment or Services have not yet been duly delivered and accepted.

If any purchases are to be supported by federal funding, and such funding is not made available, the Commonwealth may terminate the specific order for goods or services dependent on such Federal funds without further obligation.

### **4. GOVERNING LAW**

This Agreement shall be deemed executed in Richmond, Virginia. This Agreement and any disputes arising under it shall be governed by the laws of the Commonwealth of Virginia. Any litigation arising in connection with this Agreement shall be brought in the courts of the Commonwealth of Virginia. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations.

### **5. INTERPRETATION OF AGREEMENT**

As used in this Agreement, "Equipment" shall include all associated hardware and operating system software/firmware ("Software")

Headings are for reference purposes only and shall not be considered in construing this Agreement.

The documents comprising this Agreement, and their order of precedence in case of conflict, are: (1) all executed Orders and Attachments referencing this Agreement; (2) this document; (3) the Contractor's proposal submitted in response to a Request For Proposal ("RFP"); and (4) the Commonwealth's RFP. The foregoing documents represent the complete and final agreement of the parties with respect to the subject matter of this Agreement.

If any term or condition of this Agreement is found to be illegal or unenforceable, it shall be severed, and the validity of the remaining terms and conditions shall not be affected.

Nothing in this Agreement shall be construed as an express or implied waiver of the Commonwealth's sovereign or Eleventh Amendment immunity, or as a pledge of its full faith and credit.

## **6. AMENDMENT AND WAIVER**

No amendment of this Agreement shall be effective unless it is in writing and signed by a duly authorized representative of each party. Under no circumstance shall any term or condition on or in any invoice, package, license or other Contractor-supplied document be effective unless signed by the Commonwealth's duly authorized representative. No representative of the Commonwealth has authority to increase the price of a fixed-price contract by more than twenty-five percent of the contract price or \$50,000, whichever is greater, without the advance written approval of the Governor or his designee.

No waiver of, or consent to, any breach shall be effective unless expressly made in writing and signed by the waiving or consenting party's duly authorized representative.

## **7. CERTIFICATIONS**

Contractor hereby certifies its compliance with the following acts, as amended: Virginia Fair Employment Contracting Act; Virginia Governmental Frauds Act; Virginia Public Procurement Act; and Federal Immigration Reform and Control Act of 1986; Virginians with Disabilities Act; Americans with Disabilities Act; Federal Civil Rights Act of 1964.

## **8. CONTRACTUAL RECORDS**

The Contractor shall make all contractual books and records and other documents relating to matters under this Agreement available to the Commonwealth and its designated agents for purposes of audit and examination for a period of five years after final payment.

Contractual records include, but are not limited to, this Agreement and all executed Orders, Attachments, modifications, invoices, and correspondence between the parties to this Agreement.

## **9. EMPLOYMENT DISCRIMINATION**

During the performance of this Agreement, the Contractor agrees as follows:

a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, or disabilities except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The Contractor will include the provisions of the foregoing paragraphs a, b and c in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

## **10. CONTINGENT FEE WARRANTY**

The Contractor represents and warrants that the Contractor has not employed or retained any company or person, except Contractor's regular, full-time employees, for the purpose of soliciting or securing this Agreement and has not given or agreed to give anything of value to any such company or person contingent upon the award or making of this Agreement. If either or both of the foregoing representations is untrue, the Commonwealth shall have the right to terminate this Agreement without liability or, in its discretion, recover from the Contractor the full amount of any such contingent compensation.

## **11. PRIME CONTRACTOR RESPONSIBILITY**

If the Contractor's proposal includes any goods or services to be supplied by another party, the Contractor agrees as follows:

a. The Contractor shall act as prime contractor for the procurement and maintenance of the entire proposed configuration and shall be the sole point of contact with regard to all obligations under this Agreement.

b. The Contractor hereby represents and warrants that the Contractor has made such other party aware of the proposed use and disposition of the other party's Product or services, and that such other party has agreed in writing that it has no objection thereto.

## **12. INFRINGEMENT ACTIONS**

a. Contractor, at its own expense, shall defend any suit brought against the Commonwealth for the infringement of patents, copyrights or trade secrets protected by state or federal law if the claim of infringement is alleged to relate to or arise from the Contractor's or Commonwealth's use of any Equipment, software, materials or information prepared or developed in connection with performance of this Agreement. In such suit, Contractor shall satisfy any final award for any infringement.



b. The purchasing agency shall notify the Contractor of such suit within a reasonable time after learning of it and shall give the Contractor the full right and opportunity to conduct the defense of the suit, subject however to the requirements of Sections 2.1-122 and 2.1-127 of the Code of Virginia or any successor statute. If principles of governmental or public law are involved, the Commonwealth may, at its option, participate in the defense of the suit.

c. The Contractor shall not be required to indemnify the Commonwealth against any claim of infringement arising solely out of the Commonwealth's own specifications or design or solely from the combination of Equipment or software furnished hereunder with any equipment or software not supplied by the Contractor.

d. If, in the Contractor's opinion, any Product or Service is likely to or does become the subject of a claim of infringement, Contractor may, at its option, provide noninfringing substitutes that are satisfactory to the Commonwealth, or at Contractor's option and expense, may obtain the right for the Commonwealth to continue the use of such Product or Service.

e. If the use of such Equipment or software by the Commonwealth is prevented by permanent injunction or by Contractor's failure to procure the right for the Commonwealth to continue using the software, the Contractor agrees to take back the infringing Equipment, software, materials or information and refund the total amount the Commonwealth has paid Contractor under this Agreement, less one and one half (1 1/2) percent of the total paid for each month of use by the Commonwealth. This obligation is in addition to the obligations cited in subparagraphs a. through d. of this Section entitled "Infringement Actions".

### **13. ASSIGNMENT**

To the fullest extent permitted by law, the parties agree that Contractor's rights under this Agreement shall not be assignable, in whole or in part, to any other party without the Commonwealth's written consent, and that any purported assignment or transfer without such consent shall be null and void. If any law limits the right of the parties to prohibit assignment or nonconsensual assignments, the effective date of the assignment shall be as follows. The Contractor shall give the purchasing office prompt written notice of the assignment, signed by authorized representatives of both the Contractor and the assignee. This written notice shall be on the Department of Information Technology's (DIT's) "Assignment Notice / Payment Instruction" form and shall provide all information requested on that form. Copies of the form may be obtained from the Contracts Manager DIT. Upon DIT's acknowledgment of receipt of the properly executed form, the Assignee shall notify the using agency or agencies receiving the goods or services of the assignment and shall supply the using agency with a copy of the properly executed form. Any payments made prior to the using agency's receipt of such notification and form shall not be covered by this assignment.

In the event the Commonwealth receives any notice from a third party claiming to be an assignee of any rights of the Contractor under this Agreement, Contractor agrees that payment or other performance in respect of those rights shall not be due until at least thirty days after the Commonwealth's receipt of the notice required by the above paragraph or receipt of a similarly executed notice confirming the absence or revocation of the purported assignment. The Acquisition Services Division of DIT shall promptly notify the Contractor of any assignment notice it receives.

## **14. CONTRACTUAL DISPUTES**

In accordance with Section 11-69 of the Code of Virginia, Contractual claims, whether for money or other relief, shall be submitted in writing to the purchasing agency no later than sixty (60) days after final payment; however, written notice of the Contractor's intention to file such claim must be given to such agency at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment. The purchasing agency shall render a final decision in writing within thirty (30) days after its receipt of the Contractor's written claim.

The contractor may not invoke any available administrative procedure under Section 11-71 of the Code of Virginia nor institute legal action prior to receipt of the purchasing agency's decision on the claim, unless that agency fails to render its decision within thirty (30) days. The decision of the purchasing agency shall be final and conclusive unless the Contractor, within six (6) months of the date of the final decision on the claim, invokes appropriate action under Section 11-70, Code of Virginia or the administrative procedure authorized by Section 11-71, Code of Virginia.

The Department of Information Technology, its officers, agents and employees, including, without limitation, the Contracts Manager, are executing this Agreement and any Orders issued hereunder, solely in its or their statutory and regulatory capacities as agent for the Commonwealth agency purchasing and receiving the goods or services identified in Attachment "A" to this Agreement or on the subsequent Order in question and need not be joined as a party to any dispute that may arise thereunder.

In the event of any breach by the Commonwealth, Contractor's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Contractor's remedies include the right to terminate any license or support services hereunder.

## **15. INVOICES**

All invoices shall be rendered promptly after all Equipment and Services covered by the invoice have been accepted. All payments for Software Support Services may be paid annually in advance, at the Commonwealth's discretion. No invoice may include any costs other than those identified in the executed Order or Attachment referencing this Agreement. Without limiting the foregoing, all shipping costs are the Contractor's responsibility, except to the extent such charges are identified on the executed Order or Attachment. Invoices shall provide at a minimum:

- 1 Type and description of the Equipment or Service;
2. Serial number, if any;
3. Charge for each item, and;
4. The Agreement Number or Order Number;
5. Contractor's Federal Identification Number (FIN);

Payment for maintenance services of less than one month's duration shall be prorated at 1/30th of the basic monthly charges for each calendar day.

## **16. PROMPT PAYMENT**

Payment shall be due within thirty (30) days after (1) acceptance of all Equipment or Services, (2) receipt of a correct invoice for such payment, and (3) when applicable, receipt of the payment instruction form referenced in the Section entitled ("Assignments"), whichever is latest. Where payment is made by mail, the date of postmark shall be deemed to be the date of payment. Any amounts due the Commonwealth under the terms of this Agreement may be applied against Contractor's invoices with appropriate information attached.

In accordance with the Virginia Public Procurement Act, all proper charges for which payment is more than seven (7) days overdue shall accrue interest as provided in Sections 11-62.1 through 11-62.9 of the Code of Virginia. The rate of interest shall be determined in accordance with Section 11-62.5 of the Code of Virginia. In no event shall any interest penalty accrue, however, when payment is delayed because of a disagreement between the Commonwealth and the Contractor regarding the quantity, quality or time of delivery of any Equipment or Service or the accuracy or correctness of any invoice. The Contractor shall notify the fiscal officer of the purchasing agency or institution of all invoices that are in excess of thirty (30) days old.

## **17. PAYMENTS TO SUBCONTRACTORS**

In accordance with Section 11-62.11 of the Code of Virginia, within seven days after receipt of amounts paid to the Contractor by the Commonwealth for work performed by a subcontractor, the Contractor shall

- a. pay the subcontractor for the proportionate share of the total payment received from the agency attributable to the work performed by the subcontractor, or
- b. notify the agency and subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

The contractor shall pay interest to the subcontractor on all amounts owed by the Contractor that remain unpaid after seven days following receipt by the Contractor of payment from the Commonwealth for work performed by the subcontractor, except for amounts withheld as allowed in (b) above. The Contractor shall provide its federal employer identification number (or social security number, if Contractor is an individual) to the Commonwealth as required by Section 11-62.11(2) of the Code of Virginia. Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent per month. The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to be subject to the same payment and interest requirements with respect to each lower-tier subcontractor. Nothing in this paragraph shall be construed as creating any obligation on the part of the Commonwealth or as authorizing any additional charge to the Commonwealth.

## **18. THIRD PARTY BILLING**

All goods or services provided under this Contract, that are to be paid for with public funds, shall be billed by the Contractor at the contract price, regardless of which public agency is being billed.

## **19. BREACH**

The Contractor shall be deemed in breach of this Agreement if the Contractor (a) fails to make any Equipment or Service ready for acceptance testing by the specified delivery date; (b) repeatedly fails to respond to requests for maintenance or other required service within the time limits set forth in this Agreement; (c) fails to comply with any other term of this Agreement and fails to cure such noncompliance within ten days (or such greater period as is acceptable to the Commonwealth) following Contractor's receipt of a Show Cause Notice identifying such noncompliance; or (d) fails to provide a written response to the Commonwealth's Show Cause Notice within ten days after receiving same.

The Contractor shall not be in breach of this Agreement if its default was due to causes beyond the reasonable control of, and occurred without any fault or negligence on the part of, both the Contractor and its subcontractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Commonwealth in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

In the event of breach, in addition to any other remedies provided by law, the Commonwealth may cancel its obligations with respect to any or all unaccepted Equipment or Services. All costs for deinstallation and return of Equipment shall be borne by the Contractor. In no event shall any failure by the Commonwealth to exercise any remedy available to it be construed as a waiver of or consent to any breach.

## **20. LIABILITY**

To the maximum extent permitted by applicable law, the contractor will not be liable under this contract for any indirect, incidental, special or consequential damages, or damages from loss of profits, revenue, data or use of the supplies, equipment and or services delivered under this contract. This limitation of liability will not apply, however, to liability arising from: (a) personal injury or death; (b) defect or deficiency caused by willful misconduct or negligence on the part of the contractor; or (c) circumstances where the contract expressly provides a right to damages, indemnification or reimbursement

## **21. PERIODIC PROGRESS REPORTS/INVOICES**

For contracts requiring the submission of periodic contract performance progress reports or program status reports, the offeror will include a section on involvement of small businesses and businesses owned by women and minorities. This section will specify the actual dollars contracted to-date with such businesses, actual dollars expended to-date with such businesses and the total dollars planned to be contracted for with such businesses on this contract. This information shall be provided separately for small businesses, minority-owned businesses and women-owned businesses.

If the contract does not require the submission of periodic progress reports, the offeror will provide the above required information on actual involvement of small businesses and businesses owned by minorities and women as part of their periodic invoices.

**22. FINAL ACTUAL INVOLVEMENT REPORT**

The contractor will submit, prior to completion or at completion of the contract and subject to final payment, a report on the actual dollars spent with small businesses and businesses owned by women and minorities during the performance of the contract. At a minimum, this report shall include for each firm contracted with and for each such business class (i.e., small, minority-owned, women-owned) the total actual dollars spent on this contract, the planned involvement of the firm and business class as specified in the proposal, and the actual percent of the total estimated contract value. A suggested format is as follows:

FIRM NAME

ADDRESS AND PHONE NUMBER	TYPE GOODS/ SERVICES	ACTUAL DOLLARS	PLANNED DOLLARS	% OF TOTAL CONTRACT
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_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Totals for Business Class      \_\_\_\_\_

**23. BUY OUTS - THIRD PARTY ACQUISITION OF CONTRACTOR'S SOFTWARE**

Contractor shall promptly notify the DIT Contracts Manager in the event that the intellectual property in or business associated with any Equipment or Service covered by this Agreement is acquired from the Contractor by a third party or in the event the Contractor or substantially all of its assets is acquired by a third party.

The terms and conditions of this Agreement including but not limited to the license rights and related services shall not be affected in such event identified above even if the successor or assignee already has an agreement with the Commonwealth covering Equipment and Services of the type covered by this Agreement. The Contractor's responsibilities under this Agreement shall not be released by such acquisition. In addition, prior to any acquisition, Contractor shall obtain for the Commonwealth's benefit the assignee's agreement to fully perform this Agreement.

The successor or assignee, by taking any benefit, including acceptance of payment, under this Agreement ratifies this Agreement.

The failure of any successor or assignee of the Contractor to acknowledge its obligation to adhere to the terms and conditions of this Agreement shall constitute a breach of this Agreement for which the successor or assignee and the original Contractor shall be liable and subject to debarment.

## **24. COMPLIANCE WITH FEDERAL LOBBYING ACT**

a. Contractor shall not, in connection with this Agreement, engage in any activity prohibited by 31 U.S.C.A. Section 1352 (entitled "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions") or by the regulations issued from time to time thereunder (together, the "Lobbying Act"), and shall promptly perform all obligations mandated by the Lobbying Act in connection with this Agreement, including, without limitation, obtaining and delivering to the Commonwealth all necessary certifications and disclosures.

b. Contractor is hereby advised that a significant percentage of the funds used to pay Contractor's invoices under this Agreement may be federal funds. Under no circumstances shall any provision of this Agreement be construed as requiring or requesting the Contractor to influence or attempt to influence any person identified in 31 U.S.C.A. Section 1352 (a) (1) in any matter.

c. A representative of Contractor shall sign the certification attached as Attachment "B" and deliver such certification to the Commonwealth simultaneously with the execution and delivery of this Agreement. Contractor shall have the certification signed by a representative with knowledge of the facts and shall fulfill the promises of undertakings set forth in the certification.

## **25. VENDOR'S MANUAL**

As stated in Section 5.4 of the Vendors Manual, in the event of a conflict between the Vendors Manual and the other provisions of this Agreement, such other provisions shall take precedence. This Solicitation is subject to the provisions of the Commonwealth of Virginia Vendors Manual which was revised in December 1998 and any revisions thereto, which are hereby incorporated into this Agreement in their entirety. A copy of the manual is available for review at the purchasing office and, in addition, can be obtained by calling the Division of Purchases and Supply (804) 786-3842, or by accessing the Department of General Services (DGS), Division of Purchases and Supply (DPS) Internet Home Page ([www.dgs.state.va.us/dps](http://www.dgs.state.va.us/dps)).

## **26. INSURANCE**

By signing and submitting proposal under this solicitation, the offeror certifies that if awarded the Contract, it will have the following insurance coverages at the time the Contract is awarded. The offeror further certifies that it and any subcontractors will maintain these insurance coverages during the entire term of the Contract and that all insurance coverages will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

### **INSURANCE COVERAGES AND LIMITS REQUIRED:**

1. WORKER'S COMPENSATION – Statutory requirements and benefits; require that the Commonwealth of Virginia be added as an additional named insured on Contractor's policy.
2. EMPLOYERS LIABILITY - \$100,000

3. GENERAL LIABILITY - \$500,000 combined single limit. Commercial General Liability is to include Premises/Operations Liability, Equipment and Completed Operations Coverage and Independent Contractor's Liability or Owner's and Contractor's Protective Liability. The Commonwealth of Virginia must be named as an additional insured when requiring a Contractor to obtain Commercial General Liability coverage.
4. AUTOMOBILE LIABILITY - \$500,000 – Combined single limit.

## **27. ANTITRUST**

By entering into a contract, the Contractor conveys, sells, assigns and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

## **28. NONVISUAL ACCESS TO TECHNOLOGY:**

All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any State agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with the following nonvisual access standards from the date of purchase or upgrade until the expiration of this Agreement:

- (i) effective, interactive control and use of the Technology shall be readily achievable by nonvisual means;
- (ii) the Technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of the Technology interacts;
- (iii) nonvisual access technology shall be integrated into any networks used to share communications among employees, program participants or the public: and
- (iv) the technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing nonvisual access standards shall not be required if the head of the using agency, institution or political subdivision determines that (i) the Technology is not available with nonvisual access because the essential elements of the Technology are visual and (ii) nonvisual equivalence is not available.

Installation of hardware, software, or peripheral devices used for nonvisual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the

manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.

If requested, the Contractor must provide a detailed explanation of how compliance with the foregoing nonvisual access standards is achieved and a validation of concept demonstration.

The requirements of this Paragraph shall be construed to achieve full compliance with the Information Technology Access Act, 2.1-807 through 2.1-811 of the Code of Virginia.

## **29. RISK OF LOSS**

The Contractor shall have the risk of loss or damage to all Equipment until clear and unrestricted title to such Equipment is transferred to the Commonwealth.

## **30. AVAILABILITY OF EQUIPMENT AND SOFTWARE**

The Contractor represents and warrants that all Products were formally announced for marketing purposes before execution of this Agreement or, in the case of subsequent Orders, before execution of such Orders.

## **31. ORDERS**

Authorized ordering officials of Commonwealth Agencies, Institutions, and other public bodies may order Products from this Contract by one of the following methods:

- A. Issuing Agency Purchase Order, Form DGS-41-001
- B. Charge Card: An ordering and payment process under contract with American Express (AMEX). Each order must not exceed \$5,000. Payment will be made to Contractor by AMEX within three business days.
- C. A Delivery Order issued by the Acquisition Services Division, DIT.

This ordering authority is limited to issuing orders for the Products available under this Agreement. Under no circumstances shall any Agency, Institution, or other public body of the Commonwealth have the authority to modify this Agreement.



### **32. AUTHORIZED REPRESENTATIVES**

This contract may be modified in accordance with Section 11-55 of the Code of Virginia. The only representatives authorized to modify this Agreement on behalf of the Commonwealth and the Contractor are shown below.

#### **CONTRACTOR**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### **COMMONWEALTH OF VIRGINIA**

Contracts Manager  
Dept. of Information Technology  
Richmond Plaza Bldg., Lobby Level  
110 South 7th Street  
Richmond, VA 23219

### **33. TITLE TO EQUIPMENT**

Clear and unrestricted title to all Equipment purchased under this Agreement shall pass to the Commonwealth upon payment of the purchase price.

### **34. EQUIPMENT CONDITION**

All Equipment to be supplied by Contractor shall be new Equipment, except that used Equipment may be delivered if it is clearly identified as such in the proposal and prior to delivery thoroughly inspected, repaired as necessary, and warranted as equivalent to new Equipment. Contractor warrants that any such used Equipment will be acceptable to the manufacturer under its standard Equipment maintenance program and at standard rates. If such used Equipment is subsequently not accepted for such maintenance, Contractor shall be responsible for all costs associated with expeditiously repairing, improving or upgrading such Equipment to the level required by the manufacturer to make the Equipment acceptable to the Contractor under its standard maintenance program. Underwriters Laboratories or a recognized equivalent certification agency must have approved all new and used Equipment proposed by Contractor.

### **35. OPERATIONAL RESTRICTIONS**

Contractor warrants that, except as specifically agreed in writing all Products may be operated at any time for the convenience of the Commonwealth (exclusive of time required for preventive maintenance, remedial maintenance and approved engineering changes). Without limiting the foregoing, Contractor warrants that there are no restrictions as to consecutive hours or length of personnel shifts. The Commonwealth may make the Products available to any Commonwealth agency or any other users under conditions where the Commonwealth supervises such use.

### **36. PRICE PROTECTION**

The Commonwealth shall not pay any costs above those specified in this Agreement or set forth on any Order or Attachment referencing this Agreement. If within twelve (12) months following the acceptance of any Equipment or Service, the list price of the Equipment or Service is reduced below the

price paid hereunder, then the difference shall be refunded to the Commonwealth. Such refund shall be made to the ordering agency or institution within thirty (30) days from the date the decrease is announced to the general public. In addition, written notification of the decrease will be provided to DIT at the address identified in Section A.5.

### **37. TERM**

This Agreement shall take effect on the date of its final execution by both parties, and shall continue in full force and effect for one (1) year thereafter. At the Commonwealth's sole discretion, this Agreement may be extended for three (3) one-year periods after the initial one-year term. The Commonwealth shall issue a written notice to the Contractor 30 days in advance, for any renewal period after the initial one (1) year term.

### **38. TYPE CONTRACT**

This is an Indefinite Delivery, Indefinite Quantity requirements **Master Contract**.

### **39. INSPECTION/LATENT DEFECTS**

All Equipment is subject to inspection and test. Equipment that does not meet specifications may be rejected. Failure to reject, however, does not relieve the Contractor of liability for latent or hidden defects subsequently revealed when goods are used after acceptance has occurred. If latent defects are found at any time during the term of this Agreement, the Contractor shall repair or replace the defective goods. This remedy shall be in addition to any other remedies or obligations under this Agreement or provided by law.

### **40. DELIVERY DATE**

The Contractor shall deliver the Equipment, ready for testing, by the delivery date specified in any executed Attachment or Order referencing the Agreement. If delivery of all Equipment is not completed within thirty (30) days after the scheduled delivery date, the Commonwealth may cancel the Agreement without further obligation. The Commonwealth may postpone any delivery date by notifying the Contractor at least seven (7) days prior to the delivery date. However, the delivery date shall not be postponed more than a total of thirty (30) days.

### **41. COMMENCEMENT OF ACCEPTANCE TESTING**

The Equipment shall be considered ready for testing on the installation date and will end when the hardware and Software has met the standard of performance as defined herein for a period of forty-eight (48) consecutive business hours by operating in conformance with the Contractor's specifications (as set forth in the Contractor's manual, manufacturer's manual, or as quoted in the Offeror's response to the Request for Proposals).

### **42. REQUIRED PERFORMANCE LEVEL**

To qualify for acceptance, all Equipment must concurrently perform in accordance with the technical specifications and functional descriptions, as contained or referenced in this Agreement, at an average effectiveness level of 98% or more, calculated over a period of forty-eight (48) consecutive

business hours. The Commonwealth shall not pay any charges, either beforehand or retroactively, associated with the Contractor's requirement to achieve this performance level. If any Equipment does not meet the standard of performance during the initial forty-eight (48) consecutive business hours, the acceptance period shall continue on a day-to-day basis until all Equipment concurrently meet the standard of performance for forty-eight (48) consecutive business hours.

Should it be necessary, the Commonwealth may delay the start of the acceptance period, but such a delay shall not exceed thirty (30) consecutive days.

#### **43. ACCEPTANCE**

The Equipment shall be deemed accepted on the first day after successful completion of the acceptance period. Upon request, the Commonwealth shall provide written confirmation of acceptance. If the standard of performance has not been met after thirty (30) calendar days have elapsed from the start of the acceptance period, the Commonwealth may require a replacement to be provided or may avail itself of the remedies for breach.

#### **44. RECORDS**

The Commonwealth shall maintain appropriate daily records documenting performance during the acceptance period and such records shall be conclusive for purposes of determining acceptance.

#### **45. WARRANTY / MAINTENANCE OF EQUIPMENT**

In this Agreement "Maintenance" or "Warranty" of Equipment shall mean: (1) all labor, parts and travel necessary to keep the Equipment in good operating condition and preserve its operating efficiency in accordance with its technical specifications; and (2) Any necessary shipment and insurance costs.

Warranty / Maintenance of Equipment shall not include electrical work external to the Equipment, the furnishing of supplies, or adding or removing accessories, attachments, or other devices not provided under this Agreement. Warranty / Maintenance of Equipment also shall not include repair of damage resulting from transportation by the Commonwealth between Commonwealth sites or from accident, unless the accident is caused by negligent or intentional acts or omissions of Contractor or its agents.

The Warranty / Maintenance prices listed in this Agreement include cost of labor, parts, travel, factory overhaul, rehabilitation, transportation and substitute Equipment as necessary for 98% effective performance. In instances where it is necessary for the Contractor to return the Equipment to the factory, the Contractor shall be responsible for all costs of the Equipment from the time it leaves the Commonwealth site until it is returned to the Commonwealth site in good operating condition. Only new standard part or parts equal in performance to new parts shall be used in effecting repairs. Parts that have been replaced shall become the property of the Contractor. Replacement parts installed shall become the property of the Commonwealth.

- All *Premium* desktops, workstations, and servers delivered under this Agreement shall include a three (3) year On-site Warranty that commences after Equipment Acceptance.
- All *Premium* laptop computers shall include a three (3) year Exchange Warranty, as defined herein that commences after Equipment Acceptance.

- All *Value* desktops shall include a one (1) year On-site Warranty, that commences after Equipment Acceptance, followed by a two (2) year parts and labor Warranty, which may be upgraded to a two (2) year On-site Warranty, if available from the Contractor.
- All *Value* notebook computers shall include a one (1) year depot Warranty that commences after Equipment Acceptance, which may be upgraded to a one (1) year Exchange Warranty, if available from the Contractor. Following this initial Warranty period, the Contractor shall offer two additional one (1) year Warranty periods, which may be exercised at the sole option of the Commonwealth.

All Warranty/Maintenance specifications delineated herein shall apply to both Warranty and Maintenance. All software and firmware shall be considered an integral component of the Equipment and the Contractor shall respond to all requests for Warranty and Maintenance for any failure.

#### **46. COMMONWEALTH'S RESPONSIBILITIES DURING WARRANTY / MAINTENANCE**

a. During any term of Warranty / Maintenance, Commonwealth personnel shall not perform or attempt repairs to the Equipment except as authorized in writing by the Contractor.

b. The Commonwealth shall permit access to the Equipment which is to be maintained, subject to the installation site's security regulations,

c. The Commonwealth may provide storage space for spare parts and working space, including heat, light, ventilation, electric current and outlets, and telephones (for local calls only) for the use of maintenance personnel.

d. The Commonwealth shall maintain the site in accordance with the equipment environmental specifications furnished by the Contractor.

#### **47. PRINCIPAL PERIOD OF MAINTENANCE**

The Principal Period of Maintenance (PPM), for desktops, workstations, and notebooks shall be 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding State holidays, and for servers shall be twenty-four (24) hours per day, 365 days per year, including weekends and holidays.

#### **48. RESPONSE TIME**

During the PPM, the Contractor shall respond by telephone within two (2) hours after notification from the Commonwealth of a problem for desktops, workstations, and notebooks. For servers, the Contractor shall respond On-site within four (4) hours after notification from the Commonwealth of a problem. All repairs shall be completed by the Contractor by the end of the next working day after notification by the Commonwealth of a malfunction.

#### **49. MAINTENANCE CONTINUITY**

The Contractor shall provide, at the Commonwealth's discretion, three (3) additional one-year periods of maintenance under the same provisions as contained in Paragraph 45. WARRANTY / MAINTENANCE OF EQUIPMENT commencing subsequent to the first year of On-site, depot, or Exchange maintenance, as applicable. The Commonwealth shall issue a written notification to the

Contractor for each twelve (12) month period that maintenance Services are required after the "initial term". Any increases in pricing will be governed by the CPI-W index entitled "Other Services". The percentage increase shall not exceed the above index's most recent percentage available to the Commonwealth as published by the Bureau of Labor Statistic's Philadelphia Office. If prices for the services remain the same or decrease for succeeding years, the Commonwealth shall be afforded the opportunity to renew the services at the lowest price available to any other customer.

## **50. DOWNTIME**

Equipment is considered to be "down" if it does not operate in accordance with the technical specifications and functional descriptions contained or referenced in this Agreement, or if it must be released to the Contractor for unscheduled remedial services, or if data damaged by the malfunction has not yet been reconstructed.

Downtime shall commence when the Commonwealth reports the malfunction to the Contractor at its designated contact point, and shall end when the Equipment is returned to the Commonwealth in a condition that enables it to operate in accordance with the above specifications and descriptions. However, malfunction of redundant peripherals shall not constitute downtime if the malfunctioning peripherals do not exceed 10% of the total peripherals available for the identified function.

## **51. CREDIT FOR DOWNTIME**

The Contractor shall grant a credit to the Commonwealth for any Equipment under current maintenance which fails to perform at an effectiveness level of 98% or more during any month. The Effectiveness Level is the percentage of scheduled Production time during which the Equipment is not down. The credit shall be equal to one-tenth (1/10) of the monthly maintenance charge for the Equipment for each percentage point by which the Effectiveness Level falls below 98%. However, the credit shall not exceed the monthly maintenance charge.

Production Time shall not include scheduled preventative maintenance time or scheduled engineering change time.

The Commonwealth's records shall be conclusive for calculation of the Effectiveness Level.

All time shall be measured in whole hours and minutes.

## **52. EQUIPMENT REPLACEMENT**

If the Effectiveness Level of any Equipment falls below 98% for three (3) consecutive months, the Contractor shall, upon the Commonwealth's request, replace the Equipment at no cost to the Commonwealth. The replacement shall be installed no later than fifteen (15) working days after the Commonwealth's request is received by Contractor.

## **53. CONTRACTOR'S WARRANTY/MAINTENANCE POINT OF CONTACT**

The Contractor shall provide the Commonwealth with a single designated point of contact and toll-free telephone number for warranty/maintenance Services.

#### **54. MANUALS**

Contractor shall supply an operations manual for each Equipment, and in the case of custom-developed deliverables, shall also provide a manual describing the functions, characteristics and operating capabilities that may be expected of such deliverables.

#### **55. LICENSED SOFTWARE**

The Contractor represents and warrants that it is the sole owner of each software Product or, if not the owner, has received all proper authorizations from the owner to license each software Product, and has the full right and power to grant the rights contained in this Agreement. Contractor further represents and warrants that neither the software Product nor its use will violate or infringe any patent, copyright, trade secret or other property right of any other person.

#### **56. TERM OF LICENSE**

All licenses granted under this Agreement are purchased on a non-exclusive, irrevocable perpetual license basis and shall commence upon the acceptance of the software Product by the Commonwealth. Notwithstanding the foregoing, the Commonwealth may terminate the license at anytime. All licenses granted to the Commonwealth are for the use of the software Product at the Commonwealth's computing facilities at the sites identified in any executed Attachment or Order referencing this Agreement. This license is perpetual and in no event shall Contractor's remedies for any breach of this Agreement include the right to terminate any license or support services hereunder.

#### **57. CONFIDENTIALITY**

Commonwealth agrees that when the Software Product is proprietary to Contractor and has been developed or acquired at Contractor's expense, that it shall hold and use the Software Product in the same manner as it would deal with its own confidential information. Commonwealth shall not knowingly divulge, nor knowingly permit any of its employees, agents, or representatives to divulge, any proprietary information with respect to the Software Product, the technology embodied therein, or any other documentation, models, descriptions, forms, instructions or other proprietary information relating thereto, except as specifically authorized by Contractor, in writing, or as may be required by the laws of the Commonwealth of Virginia.

Commonwealth shall take all reasonable steps necessary or appropriate to insure compliance with this Section by the Commonwealth's employees, agents and representatives, including copying reproducible legends and markings on all physical components of the Software Product.

The Commonwealth's obligation shall terminate three years after the Commonwealth ceases using the Software Product containing the proprietary information.

#### **58. SOFTWARE UPGRADES**

The Commonwealth shall be entitled to receive any and all upgraded versions of the Software Product that Contractor may make available in the future including any third party Software Product

provided by the Contractor under this Agreement. The maximum charge to the Commonwealth shall not exceed the difference between the price which the Commonwealth paid for the present version, and the lowest price at which the Contractor has sold or licensed the upgraded version.

## **59. DISPOSITION OF SOFTWARE**

Unless otherwise instructed by the Contractor, the State shall erase, destroy or otherwise render unusable the Software Product within thirty (30) days from the date of the Commonwealth's termination of the license. A letter certifying this destruction shall be sent to the Contractor as soon as this process is completed. The Commonwealth shall have the right to retain one copy for archival purposes.

## **60. COMMONWEALTH'S RIGHTS TO COMPUTER SOFTWARE**

Notwithstanding anything to the contrary in this Agreement, the Commonwealth shall have:

- a. Unlimited use of the Software Products on the machines for which it is acquired and on any replacement equipment;
- b. Use of such Software Products with a backup system if the system(s) for which it was acquired is for any reason, inoperative or during an emergency, or the performance of engineering changes in features or model;
- c. The right to use such Software Products at any Commonwealth installation to which the machine(s) may be transferred by the Commonwealth;
- d. The right to copy such software for safekeeping or backup purposes;
- e. The right to modify such Software Product or combine it with other programs or material at the Commonwealth's risk; and
- f. The Commonwealth shall have the right to reproduce any and all physical documentation supplied under the terms of this Agreement, provided, however, that such reproduction shall be for the sole use of the Commonwealth and shall be subject to the same restrictions or use and disclosure as are contained elsewhere in this Agreement.

Nothing contained herein shall be construed to restrict or limit the Commonwealth's rights to use any technical data which the Commonwealth may already possess or acquire under proper authorization from other sources.

## **61. SOFTWARE WARRANTY**

Contractor warrants the operation of the Software Product identified in this Agreement for a minimum of twelve (12) months (or such longer period as may be agreed to) after acceptance. Software Products which fail to operate in accordance with the Contractor's Proposal or published specifications will be returned, at Contractor's expense, for replacement. Contractor agrees to replace any non-conforming Software Product within five (5) calendar days after receipt of the returned Software Products. Contractor response times during Warranty periods is two (2) hours after identification that a problem exists. The

Principal Period of Maintenance (PPM), for desktops, workstations, and notebooks shall be 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding State holidays, and for servers shall be twenty-four (24) hours per day, 365 days per year, including weekends and holidays.

## **62. WARRANTY AGAINST SHUTDOWN DEVICES**

Contractor warrants that the software Products provided under this Agreement shall not contain any lock, counter, CPU reference, virus, worm or other device capable of halting operations or erasing or altering data or programs. Contractor further warrants that neither the Contractor, nor its agents, employees or subcontractors shall insert any such device after execution of this Agreement.

## **63. DISASTER RECOVERY**

By executing this Agreement, Contractor hereby authorizes the Commonwealth to operate Contractor's licensed software Products identified in this Agreement at other location(s) for purposes of disaster recovery and disaster recovery testing. In addition, Contractor recognizes that to prepare for such an event the Commonwealth must test the Contractor's software Product (normally for a periods of two to three days, twice annually) at a disaster recovery vendor's Cold Site. The use of Contractor's software Products by the Commonwealth, at such times and under such events will be in accordance with the terms and conditions of this Agreement. Contractor agrees that there shall be no additional charge to the Commonwealth when Contractor's software Products are used during an actual disaster or for disaster recovery testing.

## **64. CONTRACTOR'S REPORT OF SALES**

The Contractor must report the quarterly dollar value, in U.S. dollars and rounded to the nearest whole dollar, of all sales under this Contract by calendar quarter; i.e., January through March, April through June, July through September, and October through December. The dollar value of a sale is the price paid by the user for Products and Services on a Contract order as recorded by the Contractor. The reported Contract sales value must include the Industrial Funding Adjustment, as delineated in paragraph entitled "Industrial Funding Adjustment". The Contractor shall provide this report in hard copy to the Controller, DIT, and a copy of the report to the Contracts Manager, DIT, both within 30 days after the end of each quarterly reporting period as defined herein. The report must show each individual item and quantities purchased and the purchaser. The report is required to be hard copy. DIT may at a later time, agree to an electronic version of the report, however, in lieu of any express agreement by both parties as to the electronic format, the Commonwealth will only accept a hardcopy version. The Contractor shall define "sale" prior to the first reporting period and then shall maintain that definition through out the term of this Agreement. Sale may be defined as; 1) when the Commonwealth pays the purchase price, or 2) when the Commonwealth accepts the Products or 3) other as defined by the Contractor.

## **65. INDUSTRIAL FUNDING ADJUSTMENT**

The Contractor must pay DIT, an Industrial Funding Adjustment (IFA). The Contractor must remit the IFA within 30 days after the end of each quarterly reporting period as established in the clause entitled "Contractor's Report of Sales". The IFA equals two percent (2%) of the total quarterly sales reported. Contractor shall remit the IFA together with a copy of the Contractor's Report of Sales as delineated in paragraph above. The IFA reimburses the Commonwealth and defrays the costs for IT procurement and the



administration of the subsequent awards. The IFA amount due must be paid by check with identification of "Contract number", "report amounts", and "report period", on either the check stub or other remittance material. DIT may at its discretion, agree to an electronic funds transfer, in lieu of a check, however in the absence of an express written agreement from DIT that validates agreement, then the payment shall be made by check as described herein made payable to the Controller, DIT.

If the full amount of the IFA is not paid within 30 calendar days after the end of the applicable reporting period, it shall constitute a Contract debt to the Commonwealth of Virginia, and the State may exercise all rights and remedies available under law. Failure to submit sales reports, falsification of sales reports, and or failure to pay the IFA in a timely manner may result in termination or cancellation of this Contract. Willful failure or refusal to furnish the required reports, falsification of sales reports, or failure to make timely payment of the IFA constitutes sufficient cause for terminating this Contract for default.

It is the intent of the Commonwealth to capture 2% of all sales, including temporary reduced pricing, fire sales, one time sales, trade ins, promotional items that have been marked down and all sales to the Commonwealth under this Agreement.

#### **67. DRUG FREE WORKPLACE**

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the forgoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

"Drug-free workplace" means a site for the performance of work done in connection with this Contract, wherein the Contractor's employees are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of any controlled substance or marijuana during the performance of the Contract.

#### **67. UNIVERSAL SERVICE FUND PARTICIPATION BY CONTRACTOR**

The Contractor agrees to make available to all requesting USF participants, all products and Services as listed and priced herein. The Contractor agrees to provide the Products and Services directly to the USF participant, and to bill each USF participant directly. The Contractor agrees and understands that the responsibility for collection of all charges incurred, and the responsibility for resolving all Product and Service problems as well as administration of said Contract for USF participation shall be the sole responsibility of the Contractor.

The Contractor warrants that it is qualified under applicable Federal Communications Commission and Virginig State Corporation Commission rules to apply for and receive Universal Service Fund allocations/disbursements for services provided pursuant to this Contract to agencies and entities and users which are eligible for those allocations/disbursements on behalf, and for the benefit, of those agencies and

institutions. The Contractor also agrees to maintain those qualifications, and to assist agencies and entities in applying for and receiving these allocations/disbursements.

#### **68. QUALIFICATIONS OF OFFERORS**

The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the offeror to perform the services/furnish the goods and the offeror shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect offeror's physical facilities prior to award satisfy questions regarding the offeror's capabilities. The Commonwealth further reserves the right to reject any proposal if the evidence submitted by, or investigation of, such offeror fails to satisfy the Commonwealth that such offeror is properly qualified to carry out the obligation of the Contract and to provide the services and furnish the goods contemplated therein.

#### **69. AWARD NOTICES**

Upon the completion of negotiations, the State will either post a NOTICE OF AWARD (NOA) or a NOTICE OF INTENT TO AWARD (NOITA). If a NOITA is used, the notice will be publicly posted ten days prior to the actual award date of the contract. All award notices will be posted on ASD's Web Page ([HTTP://ASD.STATE.VA.US](http://ASD.STATE.VA.US)) and posted in ASD's lobby in written format.

A NOTICE OF INTENT TO AWARD OR A NOTICE OF AWARD will be mailed to any bidder submitting a self-addressed, stamped envelope with their proposal.

NOTICES OF INTENT TO AWARD OR NOTICES OF AWARD will be posted in accordance with paragraph 6.3 of the Vendor's Manual.

TELEPHONIC REQUESTS FOR PROPOSAL RESULTS WILL NOT BE HONORED.

#### **70. DEBARMENT STATUS**

By submitting their proposals, offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting bids or proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

**PERSONS SIGNING THIS CONTRACT ARE AUTHORIZED REPRESENTATIVES OF EACH PARTY TO THIS CONTRACT AND ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT.**

#### **CONTRACTOR**

BY: \_\_\_\_\_  
NAME: \_\_\_\_\_  
TITLE: \_\_\_\_\_  
DATE: \_\_\_\_\_

#### **COMMONWEALTH OF VIRGINIA**

BY: \_\_\_\_\_  
NAME: Jeff Davis  
TITLE: Contracts Manager  
DATE: \_\_\_\_\_

**ATTACHMENT "A"**  
**TO**  
**AGREEMENT VA-01XXXX-XYZ**  
**FOR THE**  
**VIRGINIA DEPARTMENT OF X**

Attachment "A" is hereby incorporated into and made an integral part of Agreement Number VA-01XXXX-XXX between XYZ and the Commonwealth of Virginia.

**CONTRACTORS DO NOT ADD ANY INFORMATION TO THIS ATTACHMENT "A" AT THIS TIME. THIS ATTACHMENT WILL BE COMPLETED DURING CONTRACT NEGOTIATIONS BETWEEN THE PARTIES TO THIS AGREEMENT.**

LISTING OF ALL PRODUCT PRICES

LISTING OF ALL PRODUCT MAINTENANCE PRICES

SHIP TO BILL TO ADDRESSES

DELIVERY SCHEDULE

AGENCY POINTS OF CONTACT

**ATTACHMENT "B"**  
**TO**  
**AGREEMENT VA-01XXXX-XXX**  
**FOR THE**  
**VIRGINIA DEPARTMENT OF X**

***CERTIFICATION REGARDING LOBBYING***

The undersigned certifies, to the best of his or her knowledge and belief, that:

- a. No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Organization: \_\_\_\_\_

Date: \_\_\_\_\_